



WEB COPY

W.A.(MD) No.599 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2020

CORAM:

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.(MD) No.599 of 2010

C.Raja Kalyana Sundaram

... Appellant / Petitioner

-vs-

1. The State of Tamil Nadu
Represented by the Secretary to Government
Transport Department
Fort St.George
Chennai

2. The Trustees
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust
Chennai 600 002

3. The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai Division II) Ltd.,
No.19, Thiruvananthapuram Road
Vannarpettai Post
Tirunelveli 627 003

4. The Regional Provident Fund Commissioner
Sub-Regional Office
No.10-A/3, St.Thomas Road
High Ground,
Tirunelveli-627 011

... Respondents / Respondents 1 -4

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 09.06.2010, passed in W.P.(MD) No.5667 of 2005, on the file of this Court.

Prayer in WP(MD). 5667/ 2005 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, null and void the portion of Transport Employees

<https://hccs.cas.court.gov.in/services>



Pension Rules, 1988 more particularly Part IV Rule 16(e) "the resigned employees irrespective of period of service they are not eligible for pension or other benefits" and direct the respondents to pay eligible pension or other benefits.

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For Appellant : Mr.M.M.Iqbal
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader for R1
No appearance for R2
Mr.D.Selvanayagam for R3
Mr.K.Muralisankar for R4

J U D G M E N T

[Delivered by the Hon'ble CHIEF JUSTICE]

Heard the learned counsel for the appellant. The challenge raised in the writ petition giving rise to this writ appeal was for a declaration that Part-IV of Rule 16(e) of Tamil Nadu Transport Employees Pension Rules, 1988 be declared as illegal and *ultra vires*, as it amounts to depriving an employee of his valuable right of receiving pension even after resignation.

2. The matter was discussed in detail and the learned Single Judge arrived at the conclusion that resignation is distinct from retirement and therefore, the pensionary benefits can be regulated and hence, the forfeiture clause did not suffer from any such infirmity. We entirely agree with the said view. But, the alternative argument of the learned counsel for the appellant is that even otherwise under the proviso to Rule 16(e) the appellant had sought permission to resign and therefore, the permission having been accepted by the respondents, the pensionary benefits would be admissible to the appellant.

3. The proviso to Rule 16(e) entails exemption from forfeiture clause, provided the resignation is submitted with proper permission for taking up another appointment under the Government Department, State Public Sector Undertakings or Board. The proviso appears to have been incorporated in order to enable the employee to carry over the facility of service conditions that was enjoyed by him with regard to pensionary benefits, if he undertakes another employment as provided therein.

4. We have perused the pleadings of the writ petition and the affidavit filed in support thereof and we do not find any averment therein so as to gather that the appellant had resigned in order to take up any other employment as envisaged under the proviso to Rule 16(e) of the aforesaid. In the absence of any such factual foundation, the plea raised by the learned counsel seeking the pensionary benefits under the Rules itself may not be admissible.



Accordingly, on both counts, the writ appeal fails and accordingly, rejected. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

krk / sts

To:

The Secretary to Government,
Transport Department, Fort St.George,
Chennai.

+1 CC to M/s.K. MURALI SANKAR, Advocate (SR-20128[F] dated 15/10/2020)

+1 CC to M/s.GP (SR-20230[F] dated 15/10/2020)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-20402[F] dated 16/10/2020)

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SSS(CO)

KK(22.10.2020) 3P 5C