

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.878 of 2021
(Heard through VC)

S.Ekambaram

..Petitioner

-vs-

1.The Managing Director,
Tamilnadu State Transport Corporation (Villupuram) Limited,
Vazhuthareddy,
Villupuram - 605 602.

2.The General Manager,
Tamilnadu State Transport Corporation,
Villupuram Ltd.,
Kancheepuram Region,
Kancheepuram.

3.The Administrator,
Tamilnadu State Transport Corporation,
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai - 600 002.

..Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the second respondent, namely, the General Manager, Tamilnadu State Transport Corporation, Villupuram Ltd., Kancheepuram Region, Kancheepuram to settle the remaining retirement benefits of Rs.1,99,462/- due to the petitioner based on the representation dated 05.02.2020 submitted before him and consequently to pay interest at the rate of 12% per annum for the belated settlement of retirement benefits from the date of his retirement.

For Petitioner : Ms.T.Nithya

O R D E R

has come up with this writ petition seeking a direction to the second respondent, namely, the General Manager, Tamilnadu State Transport Corporation, Villupuram Ltd., Kancheepuram Region, Kancheepuram to settle the remaining retirement benefits of Rs.1,99,462/- due to the petitioner based on the

representation dated 05.02.2020 submitted before him and consequently to pay interest at the rate of 12% per annum for the belated settlement of retirement benefits from the date of his retirement.

2. Heard the learned counsel appearing for the petitioner.

3. After detailed arguments, the learned counsel for the petitioner wanted to withdraw the writ petition, which the Court has refused for the following reasons:

3.1. The petitioner was employed as Driver and retired from services as Driver Inspector. The petitioner was not granted terminal benefits for which the petitioner approached this Court by way of filing the writ petitions in W.P.No.39855 & 39856 of 2015 for the following relief:

Writ of Mandamus directing the respondents to settle the petitioners' retirement benefits including Leave Salary, Gratuity, Dearness Allowance arrears and all other attendant retirement benefits etc. with interest at the rate of not less than 12% per annum payable from the date of retirement and consequently directing the respondents to pay interest at the rate of 12 per annum for the belated settlement of retirement benefits including the commuted value of pension, social security scheme arrears, Provident Fund, refund of Institute of road transport arrears etc. to the petitioner payable from the date of retirement i.e. 31.10.2014 & 31.08.2014 to till date of actual payment to the petitioner within the time.

3.2. This Court passed an order on 17.12.2015 that the representation of the petitioner has got to be taken into account and order shall be passed in accordance with law in the light of the decision of the Court dated 12.06.2015 made in W.A. (MD) Nos.383 to 457 of 2015. Since the order has not been complied with, the contempt petition in Cont.P.No.155 of 2018 was filed by the petitioner for wilful, deliberate and disobedience of the order of this Court and this Court on 26.07.2018 passed an order directing the respondent therein to consider the representation of the petitioner and closed the contempt petition. Whether there was a wilful disobedience or

not, was not gone into in the contempt petition. Since the representation was not considered another contempt petition in Cont.P.No.1431 of 2019 was filed and this Court on 12.09.2019, closed the contempt petition taking into account that the order dated 26.07.2018 in Cont.P.No.155 of 2018 has been complied with and that the management has rejected the request of the petitioner on 29.10.2018. Liberty was therefore given to the petitioner to challenge the said order dated 29.10.2018. Instead of challenging the said order, yet another representation dated 05.02.2020 was sent and the petitioner had approached this Court for the very same relief. This Court has already granted relief, therefore, the present writ petition is hit by the principles of res judicata. Secondly, the petitioner has been given liberty to challenge the order dated 29.10.2018. Even without mentioning what was the order passed by the management on 29.10.2018 and also not enclosing a copy of the same, the present writ petition has been filed and the conduct of the petitioner is deprecated.

3.3. Since the petitioner has been given liberty to challenge the said order it is needless to mention that without challenging the order, a mandamus cannot be granted and the petitioner ought not to have come with the present prayer. Hence, for the aforesaid reasons not only on the ground of res judicata but also for the liberty granted to the petitioner to challenge the order dated 29.10.2018, the writ petition is dismissed as devoid of merits. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

rsi

To

1.The Managing Director,
Tamilnadu State Transport Corporation (Villupuram) Limited,
Vazhuthareddy,
Villupuram - 605 602.

2.The General Manager,
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Villupuram Ltd.,
Kancheepuram Region,
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W.P.No.878 of 2021

MP (CO)
KKV/16/03/2021



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