BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2021**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.5915 of 2021

S.Balu ... Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation (Madurai) Ltd., Represented by its Managing Director and Chairman/Managing Trustree of The Tamil Nadu State Transport Corporation (Madurai) Limited, Employees Provident Fund Trust, Bye-pass Road, Madurai.

2.The General Manager, The Tamil Nadu State Transport Corporation (Madurai) Ltd., Madurai Region, Madurai.

3.The Deputy Manager (Provident Fund), The Tamil Nadu State Transport Corporation (Madurai) Limited, Employees Provident Fund Trust, Bye-pass Road, Madurai. ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to sanction and allow the petitioner to withdraw a sum of Rs.5,00,000/- from and out of his own accumulation of Provident Fund Contribution available to the credit of first respondent for the marriage expenses of his daughter S.B.Kaviya, which is scheduled to be held on 25.04.2021, within the time stipulated as fixed by this Court.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.J.Senthil Kumariah
for TNSTC (MDU)

ORDER

This writ petition is filed seeking a writ of mandamus directing the respondents to sanction and allow the petitioner to withdraw a sum of Rs.5,00,000/- from and out of his own accumulation of Provident Fund Contribution available to the credit of first respondent for the marriage expenses of his daughter S.B.Kaviya, which is scheduled to be held on 25.04.2021, within the time stipulated as fixed by this Court.

2. Mr.J.Senthil Kumariah, learned Standing Counsel takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner joined the services of the first respondent Corporation as Helper with effect from 01.09.1989. Now, he is working as Senior Tradesman Level-5, without any blemished records. The petitioner's service in the first respondent Corporation was originally governed by the provisions of Employees Pension Scheme 1995, which was notified by the Government of India under the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952. As per the said scheme, it was made compulsory to all the employees to become a member of Provident Fund, including who were in service as on 16.11.1995 or those who are joined after 16.11.1995. Accordingly, a new Pension Fund trust was constituted and the same is known as "Tamil Nadu State Transport Corporation Employees Pension Fund Trust". The said Trust was constituted after obtaining exemption under Section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. The Tamil Nadu State Transport Corporation Employees Pension Fund Rules were framed and the same was approved by the Government of Tamil Needy, by G.O.Ms.No.135, Transport Department, dated 15.12.2000. The Provident Fund contribution of the employees of the first respondent Corporation is retained by the Trust i.e., "the Tamil Nadu State Transport Corporation (Madurai) Ltd., Employees Provident Fund Trust" and the same is invested in accordance with the provisions of Rule 57(2) of Income Tax Rules.

4. He further submitted that the Provident Fund Contribution of Employees of the first respondent Corporation shall be maintained in a separate account. Rule-13 of the TNSTC EPF Trust Rules permits the employees to withdraw 90% of their total accumulation within one year before their actual retirement on attaining the age of superannuation. Similarly, the employees can avail Provident Fund Loan to pay expenses in connection with medical treatment undertaken by them, educational expenses, marriages, funeral or ceremonies, which the member/employee has to perform. Even for building houses, member concerned can withdraw the amount. The petitioner's daughter's marriage has been fixed on 25.04.2021. He submitted an application to the respondents seeking to sanction a sum of Rs.5,00,000/- as Provident Fund loan from and out of the petitioner's own accumulation of PF Contribution. A sum of Rs.6,49,537/- is available in his PF account for the year 2019-2020. The respondents have not passed any orders on the application of the petitioner and hence, the petitioner has come out with the present writ petition.

5. The learned counsel appearing for the respondents submitted that the petitioner is entitled only a sum of Rs.3,39,768/- as loan. The petitioner has to apply for the loan in a prescribed format. If thepetitioner gives the loan application the same will be considered within four weeks.

6. From the materials on record, it is seen that the Tamil Nadu State Transport Corporation (Madurai) Limited Employees Provident Fund Trust Rules are framed for management of rights and liability of its members. The said Rule was approved by the State Government. Rule-13 permits the employees to withdraw 90% of their total accumulation within one year before their actual retirement on attaining the superannuation. Similarly, the employees can avail Provident Fund Loan to incur the expenses in connection with medical treatment undertaken by them, educational expenses, marriages, funeral or ceremonies, which the member/employee has to perform.

7. As per the said Rule a member can withdraw 90% of their total accumulation within one year before his/her retirement. He/She can also withdraw for construction of house. In addition to that, a member can take a loan for marriage expenses etc. According to the petitioner, he has fixed his daughter's marriage on 25.04.2021. The petitioner gave representation on 18.02.2021 to the respondents 2 & 3, seeking loan of Rs.5,00,000/- to meet out the marriage expenses of his daughter. The respondents 2 & 3 have not passed any orders on the representation and hence, the petitioner has come out with the present writ petition. As per Rule 13 of the TNSTC EPF Trust Rules, a member of trust is entitled to raise a loan for marriage expenses.

8. In the present case, the petitioner has sought for Rs.5,00,000/- to meet out the marriage expenses of his daughter and also enclosed the marriage invitation. The learned counsel for the respondents submitted that the petitioner is entitled only a sum of Rs.3,39,768/- as loan.

9. Considering the submissions of the learned counsel appearing for the petitioner, the learned counsel for the respondents,and Rule-13 of the TNSTC EPF Trust Rules, the petitioner is directed to submit the application in a specified format to the respondents within a period of one week from the date of receipt of a copy of this order. If any such application is submitted by the petitioner for availing the loan in a prescribed form, the respondents are directed to consider the said application and sanction the eligible loan amount to the petitioner to meet out the marriage expenses already spent or to be spent by him, within a period of one week thereafter.

10. In view of the above directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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TO:

1.The Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Represented by its Managing Director
and Chairman/Managing Trustree of
The Tamil Nadu State Transport
Corporation (Madurai) Limited,
Employees Provident Fund Trust,
Bye-pass Road, Madurai.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Madurai Region, Madurai.

3.The Deputy Manager (Provident Fund),
The Tamil Nadu State Transport
Corporation (Madurai) Limited,
Employees Provident Fund Trust,
Bye-pass Road, Madurai.

+1 CC to M/s.A.RAHUL, Advocate (SR-17644[F] dated 27/04/2021)

W.P.(MD)No.5915 of 2021
26.04.2021

RK (29.04.2021) 4P 5C