



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE
AND

The Hon'ble Mr.JUSTICE M.M.SUNDRESH

W.A.(MD) No.159 of 2019

and

C.M.P(MD) .No.1223 of 2019

C.Paramasivam

.. Appellant/Writ Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
New Railway Feeder Road,
Kumbakonam.
2. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
O/o.Tamil Nadu State Transport Corporation Ltd.,
Villupuram.
3. The Enquiry Officer/Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road, Coimbatore-641 043.

.. Respondents/Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 12.11.2018, passed in W.P.(MD) No.523 of 2015.

PRAYER IN WP(MD) . 523 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned charge memo issued by the 2nd respondent in Ref. NO. 175/1750/D7/Tamil Nadu Arasu Pokkuvarathu Kazhagam / 2014 dated 05.02.2014 and the consequential proceedings issued by the 3rd respondent in Pa. No. 44/Me.E (Ne.Vu)/Tha.A.Po.Ka (Kovai) / 2014 dated 24.10.2014, quash the same and to pass such further or other orders.

For Appellant	: Mr.H.Mohammed Imran for M/s.Ajmal Associates
For Respondents	: Mr.D.Sivaraman, for R1



JUDGMENT

[Judgment of the Court was delivered by
The Hon'ble Chief Justice]

The appeal is directed against the order dated 12.11.2018, by which, post-retirement disciplinary proceedings instituted against the writ petitioner-appellant was confirmed.

2. The respondent has produced the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust Rules. Rule 19(B) of the said Rules envisages provisional pension being paid to the employees against whom departmental action or judicial proceedings are pending at the time of retirement. Rule 19(c) of the said Rules appears to have been introduced subsequent to the writ petitioner reaching the age of superannuation. As such, such rule would not apply to the writ petitioner.

3. In addition, it is submitted on behalf of the respondent that the general pension rules governing the State employees contemplate post-retirement disciplinary proceedings being initiated upon prior sanction of the Government being obtained. It is the admitted position that no such prior sanction was obtained in the present case.

4. It is elementary that the master-servant relationship between the employer and the employee is severed upon the employee reaching the age of superannuation and the limited right of the employee is to receive the pensionary and other dues, even if there is a scheme for periodical receipt of such dues post retirement. It is possible for rules to be put in place that permit post-retirement disciplinary action to be taken and several sets of rules pertaining to Government employees permit such course of action, particularly, when an offence of moral turpitude is involved or there is a serious loss which is perceived to have been occasioned to the Government employer.

5. As noticed above, Rule 19(B) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust Rules is not an enabling provision, but merely consequential upon a disciplinary action remaining pending at the time of retirement of the concerned employee. Rule 19(c) which permits disciplinary action to be initiated post-retirement, was not in place at the time of the petitioner's retirement. The general guidelines in the pension rules cannot be relied upon, since no prior Government sanction was obtained to institute disciplinary proceedings against the writ petitioner subsequent to his retirement.

6. In the light of the above, the order impugned cannot be sustained as it did not take into account the relevant



considerations pertaining to the initiation of the disciplinary proceedings against the writ petitioner subsequent to the writ petitioner's retirement.

7. In the light of the aforesaid, the appeal WA(MD).No.159 of 2019, is allowed. The judgment and order dated 12.11.2018, is set aside. The disciplinary proceedings initiated against the petitioner upon his retirement are altogether quashed. The writ petitioner - appellant will be entitled to all pensionary benefits in accordance with law and if any amount remains outstanding, the same has to be released within a period of two months from the date, failing which, the writ petitioner would be entitled to interest at the rate of 7% per annum on the defaulted amount. CMP(MD).No.1223 of 2019 is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj/pkn

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.

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
New Railway Feeder Road,
Kumbakonam.
 2. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
O/o.Tamil Nadu State Transport Corporation Ltd.,
Villupuram.
 3. The Enquiry Officer/Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road, Coimbatore-641 043.
- +3 CC to M/s.D.SIVARAMAN, Advocate (SR-1190[F] dated 19/01/2021)
- +1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-1301[F] dated 20/01/2021)

W.A.(MD) No.159 of 2019
19.01.2021

kvn(CO)

KK(02.02.2021) 3P 8C