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W.A./MD/No.1444 of 2021

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2021

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.A. [MD]No.1444 of 2021

K.Radha ... Appellant/Petitioner
Vs.

1. The Government of Tamil Nadu
Represented by The Commissioner and Secretary,
Transport Department,
Fort St. George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division,
Kumbakonam - 612 001.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 29.06.2021 passed in W.P.[MD].No.23911 of 2019.

Prayer in WP(MD). 23911/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Call for the records in respect of the order in P.No. 6/2018 dated 07.12.2018 issued by the Labour Court Kumbakonam and quash the same and consequently direct the 1st respondent to pay pension to the petitioner at Rs.7850/- which amount is the minimum pension fixed by the Tamil Nadu Govt. Vide G.O.No.313/2017 dated 25.10.2017 from the date of 01.05.1979 along with interest and with future retirement benefits.

For Appellant : Mr.D.Selvanayagam
For Mr.I.Murugesan
For 1st Respondent : Mr.R.Baskaran,
Standing Counsel for Government
For 2nd Respondent : Mr.D.Sivaraman
Standing Counsel for
Transport Corpn.,

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

<https://hcservices.ecourts.gov.in/hcservices/>



Heard Mr.D.Selvanayagam, learned Counsel appearing for the appellant, Mr.R.Baskaran, learned Standing Counsel for the Government appearing for the first respondent and Mr.D.Sivaraman, learned Standing Counsel appearing for the second respondent.

2.This Writ Appeal is directed against the order in W.P.[MD] No.23911 of 2019 dated 29.06.2021.

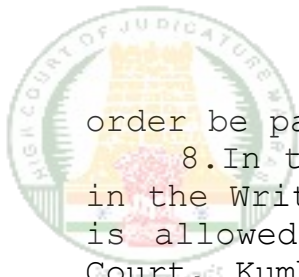
3.The said writ petition was filed by the appellant challenging the order passed by the Labour Court Kumbakonam, in C.P.No.6 of 2018 dated 07.12.2018 and for a consequential direction to the Transport Corporation to pay pension to the appellant at the rate of Rs.7,850/- per month which is fixed by the Government in G.O.Ms.No.313 of 2017 dated 25.10.2017 from 01.05.1979 along with interest and with future retirement benefits.

4.The learned Writ Court dismissed the writ petition at the admission stage and confirmed the order passed by the labour Court on the sole ground that the appellant employee had filed W.P.No.15435 of 2015 for the very same relief and therefore, the Labour Court is right in rejecting the computation petition.

5.We are unable to agree with the learned Writ Court in its observation and finding for more than one reason. Firstly, the Labour Court while dismissing C.P.No.6 of 2018, has noted the submissions made in the counter affidavit filed by the Transport Corporation. But the Labour Court has not rendered any finding on the correctness of the stand taken in the counter statement by the Transport Corporation, but rejected the claim petition solely on the ground that W.P.No.15435 was filed by the appellant and pending before the Principal Bench of this Court and the prayer sought for in the writ petition is identical.

6.We have perused the prayer sought for and we find that the prayer is not identical, as the appellant has sought for a innocuous relief to consider his 32 years of service as Fitter in the Transport Corporation and grant pension and other benefits. Whereas, the petition before the Labour Court was filed under Section 33-C (2) of the Industrial Disputes Act, 1947 and the Labour Court was to decide as to whether the said computation petition was sustainable in law and the Labour Court could not have rejected the computation petition, solely on the ground that a writ petition is pending before the Principal Bench which is only for an innocuous relief of considering the appellants case for grant of pension.

7.Therefore, we are of the view that the Writ Court committed an error in confirming the order passed by the Labour Court. Taking note of the fact that the computation petition was filed in the year 2018, we are inclined to issue appropriate directions, so that the



order be passed on merits.

8. In the result, the Writ Appeal is allowed and the order passed in the Writ Petition is set aside and consequently, the writ petition is allowed and the order passed in C.P.No.6 of 2018 by the Labour Court, Kumbakonam is set aside and C.P.No.6 of 2018 is restored to the file of the Labour Court with a request to the Labour Court to expeditiously take up the matter by giving priority, since the claim petition is of the year 2018 and decide the claim petition on merits and in accordance with law. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 Commissioner and Secretary,
Government of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division,
Kumbakonam - 612 001.
3. The Judge,
Labour Court,
Kumbakonam.

+1 CC to M/s.I.MURUGESAN, Advocate (SR-23586[F] dated 22/07/2021)
+1 CC to M/s.D.SIVARAMAN, Advocate (SR-23685[F] dated 23/07/2021)



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RC (02.08.2021) 3P-5C

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