



W.P(MD)No.13103 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13103 of 2022

and

W.M.P.(MD)9312 of 2022

S.Govindram

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Railway Station Road,
Kumbakonam 612 001.

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

3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karur Region,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the proceedings of the 3rd respondent dated 16.06.2022 and quash the same.

For Petitioner : Mr.R.Murali

For Respondents : Mr.K.Jagadees Balan
Standing Counsel



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ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent Corporation.

2. The writ petitioner was employed as driver in the respondent corporation. He joined service way back in the year 1995. He submitted an application for voluntary retirement under the relevant scheme on 06.03.2021. The Management sought response from the various sections as to whether the petitioner is having any dues. Some of the sections responded with the statement that the petitioner's dues are Nil. Copy of the same has been enclosed at Page No.13 of the typed set of papers. No formal order was passed on the petitioner's application. At the end of three months period, the petitioner stopped reporting for duty also. The petitioner has also surrendered his ID card. Thereafter, the petitioner's retiral benefits have not been settled. Instead, the impugned enquiry notice was issued. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned enquiry notice and grant relief as



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prayed for.

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4. The respondents contended that the petitioner could not have on his own assumed that he had been given voluntary retirement. The learned standing counsel would point out that it is the duty of the petitioner to have reported for duty. He called upon this Court to sustain the impugned notice and dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The service conditions of the petitioner are regulated by Service Rules.

Rule 19(B) of Service Rules reads as follows:-

19-B: Voluntary Retirement:

(a) Subject to the provisions of sub-rules (b), (c) and (d) below, an employee may, by giving notice of not less than three (3) months in writing to the appropriate authority, retire from service voluntarily if he has completed fifty years of age and 15 years of qualifying service or has completed twenty years of qualifying service. Such voluntary retirement shall, however, be subject to acceptance by the Board in respect of employees in the Managerial cadre and by the Managing Director in respect of other employees holding posts included in the Supervisory Groups and Working Groups/ Miscellaneous Groups.

(b) The competent authority may accept the notice of voluntary retirement except where -



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- (i) the employee concerned is under suspension, or
- (ii) disciplinary proceedings are contemplated against the employee concerned for the imposition of a major penalty, or
- (iii) prosecution is contemplated or pending in a Court of law against the employee concerned, or
- (iv) any amount is due from the employee on any account to the Corporation or the Government.

(c) An employee, who has given notice for voluntary retirement, may presume acceptance of the notice unless the competent authority issues an order to the contrary before the expiry of the period of notice. A formal order accepting the offer of voluntary retirement shall, however, be issued by the competent authority to give effect to the voluntary retirement in terms of the notice.

(d) An employee, who has given notice for voluntary retirement, may withdraw the notice of voluntary retirement subsequently, provided the request for such withdrawal is made before the expiry of the notice period and in any case, before the acceptance of the notice by the competent authority under sub-rule (a) above.

7. It is not in dispute that the petitioner gave an application for voluntary retirement on 06.03.2021. Admittedly, no further order was passed thereon within a period of 90 days. Therefore, the petitioner's voluntary retirement is deemed to have been accepted on the expiry of the said period.

8. When the employer-employee relationship got snapped, it is not open to the employer to issue the impugned enquiry notice thereafter. The petitioner cannot be said to have been unauthorisedly absent during the relevant period. I



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hold that the very issuance of the impugned enquiry notice is without jurisdiction.

9. The respondents are directed to disburse the petitioner's retiral benefits within a period of twelve weeks from the date of receipt of a copy of this order.

10. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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