



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE G.CHANDRASEKHARAN**

W.P. (MD)No.17645 of 2014

K.Haridas

... Petitioner

vs.

1.The Government of Tamil Nadu
represented by its Secretary to Government,
Transport Department,
Secretariat,
Chennai 600 009.

2.The Tamil Nadu State Transport Corporation (Madurai)
Limited,
Nagercoil,
represented by its General Manager,
Nagercoil.

3.The Administrator,
TNSTC Employees Pension Fund Trust,
Thiruvalluvar Illam,
Chennai 600 002.

... Respondents

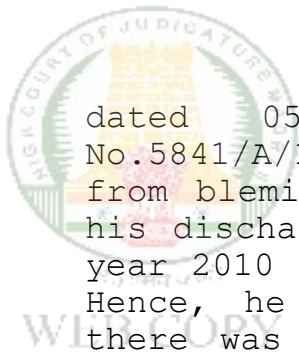
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay the monthly pension to the petitioner and consequently to direct the respondents to pay the pension arrears to the petitioner.

For Petitioner	:	Mr.S.Muthumalai Raja
For R1	:	Mr.D.Gandhiraj
		Special Government Pleader
For R2	:	Mr.K.Sathya Singh
		Standing Counsel
For R3	:	Mr.A.P.Muthupandian

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to pay monthly pension to the petitioner and consequently direct the respondents to pay arrears of pension to him.

2. The learned counsel for the petitioner submitted that the petitioner joined in the second respondent Transport Corporation at Nagercoil Branch on 12.08.1988 as Clerk. Then, he was promoted as Senior Assistant. After having served 22 years of service in the Transport Corporation, he was discharged from service by an order



dated 05.08.2010 passed by the second respondent in No.5841/A/10/TNSTC/(M)/09, on medical grounds. His service was free from blemish and he was fully eligible for getting pension. After his discharge, he received a sum of Rs.2,388/- as pension from the year 2010 till the month of June 2012. Thereafter, he was not paid. Hence, he approached the second respondent seeking pension. But there was no positive reply. Therefore, he sent a representation dated 23.04.2003 to the second respondent and that was also not responded. Hence, this petition.

3. The learned counsel for the respondents submitted that the petitioner was found medically not fit and therefore, he was discharged from duty. It is further submitted that the petitioner belong to Kerala State and he did not possess the requisite Tamil language qualification. Despite giving opportunity, he has not acquired the requisite Tamil language qualification. Hence, his service was not confirmed and the unconfirmed worker/employee is not entitled for pension. Therefore, his pension was stopped.

4. This Court considered the rival submissions and perused the materials available on record.

5. It is not in dispute that the petitioner was appointed on 12.08.1988 and was medically discharged by the proceedings of the second respondent in No.5841/A/10/TNSTC(M)/09 dated 05.08.2010. It is made clear from this proceedings that the petitioner was discharged mainly on the ground of medical reasons. This order also shows that the petitioner would be paid a permissible amount including retirement benefits. It is also not in dispute that the petitioner was paid pension till June 2012. Thereafter, he was not paid for the reason that he had not confirmed. His service was not confirmed for the reason that he did not acquire the requisite Tamil language qualification.

6. Common Rule 12 (iii) of the Common Service Rules Applicable to Transport Corporation Employees reads as follows:

(iii) Provided also that, notwithstanding the provisions in any other rule, if the person does not pass the test within the total period of four years from the date of his initial appointment he shall be discharged from service after giving him a reasonable opportunity of showing cause against the proposed discharge.

7. Rules 12 (a) reads that any person appointed by direct recruitment shall be able to speak, read and write in Tamil.

8. Rule 12 (b) reads that any person in Tamil Nadu whose mother tongue is a language other than Tamil and who have studied in an educational institution within Tamil Nadu in any other medium is



eligible to apply subject to the condition that he or she shall acquire such knowledge in Tamil by passing the second class language test in Tamil conducted by the Tamil Nadu Public Service Commission within a period of two years from the date of initial appointment. The appointment is to a post for which a qualification prescribed is below SSLC/MGEQ he/she shall pass a written test in Tamil which may be conducted by the appointing authority within a period of two years from the date of such initial appointment.

9. Rule 12(iii) shows that if the person does not pass the requisite test within the total period of four years from the date of his initial appointment, he shall be discharged from service after giving him a reasonable opportunity of showing cause against the proposed discharge.

10. Here, in this case, the petitioner was appointed as Clerk on 12.08.1988. He ought to have completed the written test in Tamil qualification on or before 12.08.1992. The petitioner has not cleared the qualifying Tamil exam. The next course open to the respondents is to discharge the petitioner, after giving him a reasonable opportunity of showing cause against the proposed discharge, for not acquiring the requisite Tamil language qualification. The respondents have not done that. They have not discharged the petitioner and allowed him to continue in service till he was discharged on medical grounds on 05.08.2010. The petitioner nearly worked under the respondents for 22 years. Having not taken any action (discharge) against the petitioner for not acquiring the Tamil language qualification and having allowed him to continue to work under the respondents for 22 years and after sanctioning pension, it is not open to the respondents to deny the pension to the petitioner. Therefore, this Court issue direction to the respondents to continue to pay the entitled pension to the petitioner, as per the Rules.

11. This Writ Petition is allowed, with the above terms. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

akv

To

1.The Secretary to Government,
Government of Tamil Nadu
Transport Department,

<https://hcservices.secourt.gov.in/hcservices> Chennai 600 009.



2.The Tamil Nadu State Transport Corporation (Madurai)
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represented by its General Manager,
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3.The Administrator,
TNSTC Employees Pension Fund Trust,
Thiruvalluvar Illam,
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+1 CC to M/s.SPL.GP (SR-26552[F] dated 17/06/2022)

+1 CC to M/s.K. SATHIYA SINGH, Advocate (SR-26624[F] dated
17/06/2022)

W.P. (MD) No.17645 of 2014
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RD(27.06.2022) 4P 6C