



W.P(MD)No.10618 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.10618 of 2017

and

W.M.P(MD).No.8099 of 2017

M.Amirtheeswaran

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Home (Transport-II) Department,
Fort. St. George,
Chennai - 600 009

2.The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai - 600 005

3.The Joint Transport Commissioner,
Madurai, Madurai District

4.The Deputy Transport Commissioner,
Virudhunagar, Virudhunagar District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the



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records relating to the impugned proceedings issued by the first respondent herein in GO (2D) No.137, (Home (Transport -II) Department), dated 29.05.2017, quash the same and further direct the respondents herein to sanction and disburse forthwith the pension and other retiral benefits payable to the petitioner.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.P.Thambidurai
Government Advocate (Civil Side)

ORDER

This writ petition had been filed for issuance of Certiorarified Mandamus, to quash the impugned proceedings issued by the first respondent herein in GO (2D) No.137, (Home (Transport -II) Department), dated 29.05.2017 and to direct the respondents herein to sanction and disburse forthwith the pension and other retiral benefits payable to the petitioner.

2. The learned counsel appearing for the petitioner submitted that a charge memo has also been issued and the charge against the petitioner is that



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he has collected less amount, thereby incurred loss to the Government. The petitioner attained superannuation and the petitioner was allowed to retire. However, the respondents have not passed any order retaining the petitioner in service. Since the petitioner was not retained in service, there is no employer and employee relationship and the respondent has no power to proceed with the disciplinary proceedings.

3. This Court is of the considered opinion that the respondents have power initiate separate proceedings under the pension rules alone after issuing notice to the petitioner. Therefore, the impugned proceedings in GO (2D) No. 137, (Home (Transport -II) Department), dated 29.05.2017 is quashed. The respondents are at liberty to proceed further with the disciplinary proceedings under pension rules alone and the enquiry shall be completed with a period of twelve weeks from the date of receipt of the copy of the order. As far as the retirement benefits are concerned, the respondents shall disburse the same within six weeks from the date of receipt of the copy of the order.



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4. With the above direction this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
lr

To

1. The Secretary,
Home (Transport-II) Department,
Fort. St. George,
Chennai - 600 009.

2. The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai - 600 005.

3. The Joint Transport Commissioner,
Madurai, Madurai District.

4. The Deputy Transport Commissioner,
Virudhunagar, Virudhunagar District.



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S.SRIMATHY, J.

lr

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