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WA No.1817 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 1817 of 2021
and
C.M.P. No. 11427 of 2021

- 1.The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited,
Ramakrishna Road, Salem – 636 007
 - 2.The General Manager
Tamil Nadu State Transport Corporation
(Salem) Limited, Dharmapuri Region,
Bharathipuram, Dharmapuri.
- Appellants

..

Versus

- 1.V Rajamohan
S/o. M.R.Venugopal,
No.199/6, Vanniyar Street,
Poosarivattam, Alagapuram, Salem-636016.
- 2.The State of Tamil Nadu represented by its
Principal/Secretary to Government,
Transport Department, Secretariat,
Fort St. George, Chennai – 600 009.
- 3.The Principal Secretary Transport Commissioner,
Chepauk, Chennai – 600 005.

.. Respondents



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WEB COPY Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.08.2020 passed in W.P. No. 2802 of 2020 on the file of this Court.

For Appellants : Mr. S. Silambannan
Additional Advocate General
assisted by Mr. R. Babu

For R1 : Mr. G. Sankaran, Senior Counsel
for Mr. Nedunchezian

For RR 2 and 3 : Mr. S. Yashwanth
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by R. MAHADEVAN, J]

Challenging the order dated 19.08.2020 passed by the learned Judge in W.P. No. 2802 of 2020, the appellants have preferred the present appeal.

2. The brief facts leading to the filing of this writ appeal are as follows:

2.1 The first respondent was selected and appointed to the post of Junior Engineer in the first appellant/Corporation in the year 1985 and got promoted thereafter. While he was working as Assistant Engineer, after obtaining permission, he participated in the selection process for appointment to the post of Motor Vehicle Inspector Gr.II conducted by the Tamil Nadu Public Service Commission. The first respondent was selected for the said post



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and an appointment order was also issued on 15.10.2009 by the third respondent in his favour. Upon such selection, he resigned the post of Section Grade Assistant Engineer from the first appellant/corporation, after rendering nearly 25 years of service.

2.2. After his selection and appointment, to his shock and dismay, one of the unsuccessful candidates challenged the selection process and it culminated in passing a judgment dated 12.06.2012 passed in W.A. No. 2175 of 2011 by the Division Bench of this Court. Consequently, the first respondent was terminated from the post of Motor Vehicle Inspector Gr.II on 28.06.2013. Aggrieved by the order of termination, the first appellant filed W.P. No. 29955 of 2014 before this Court with a prayer to direct the first appellant/Corporation to reinstate him into service as Selection Grade Assistant Engineer and the same was disposed of by giving liberty to the first respondent to approach the first appellant/Corporation in terms of the order dated 27.09.2018 passed in another identical claim in WP No. 12524 of 2014. Accordingly, the first respondent submitted a representation to the appellants herein on 25.12.2019. Since his representation was not considered by the appellants, he filed W.P. No. 2802 of 2020. The learned Judge disposed of WP No. 2802 of 2020 on 19.08.2020, by following the Judgment dated 1585 of 2019 dated 18.06.2019 of the Division Bench of this Court, to settle the



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pensionary benefits due to the first respondent, including grant of monthly pension, within a reasonable time.

2.3 Challenging the aforesaid order dated 19.08.2020 in WP No. 2802 of 2020, the appellants have preferred the present writ appeal.

3. We have heard the learned Additional Advocate General appearing for the appellants, learned Senior counsel for the first respondent and the learned Additional Government Pleader for the respondents 2 and 3 and perused the materials placed on record.

4. The learned Additional Advocate General appearing for the appellants submitted that as per the Tamil Nadu State Transport Corporation Pension Fund Rules, only a person, who attains the age of superannuation or who has tendered Voluntary Retirement Service, is eligible to get pensionary benefits. On the other hand, the first respondent has tendered his resignation from the post of Selection Grade Assistant Engineer in the first appellant/ Corporation on 05.11.2009 and he will not come under the purview of the said Rules. He further submitted that the direction of the learned Single Judge in the instant Writ Petition No. 2802 of 2020, to give pensionary benefits to the first respondent, is therefore arbitrary and unreasonable and it is required to be



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interfered with.

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5. The learned Senior counsel for the first respondent submitted that the first respondent and one Tr. Chellamuthu were terminated from the post of Motor Vehicle Inspector Grade-II on 28.06.2013 by virtue of the order passed by this Court in WA No. 2175 of 2011 dated 12.06.2012 filed by one N. Senthilkumar. The said S. Chellamuthu therefore filed WP No. 12524 of 2014 before this Court. The Writ Petition filed by S. Chellamuthu was allowed on 27.09.2018 by directing the appellants to treat the resignation of Tr. Chellamuthu as one of Voluntary Resignation from Service and to pay him all consequential retirement and pensionary benefits. As against the order dated 27.09.2018 in WP No. 12524 of 2014, the appellants herein have filed Writ Appeal No. 1585 of 2019 and it was partly allowed on 18.06.2019 by the Division Bench of this Court by holding that the order passed in the writ petition directing the appellants to treat the resignation as one of voluntary retirement and payment of terminal benefits is set aside, however, the direction for payment of pensionary benefits is sustained. The learned Judge, by following the order dated 18.06.2019 passed by the Division Bench of this Court in W.A. No. 1585 of 2019 directed the appellants to settle the pensionary benefits due to the first respondent herein, including grant of monthly pension. The claim of the first respondent is also similar and identical as that of the case



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of Tr. Chellamuthu in W.A. No. 1585 of 2019. The learned counsel for the first respondent therefore submitted that the order passed by the learned Judge warrants no interference by this Court and prayed for dismissal of the writ appeal.

6. On perusal of the records, it is evident that the first respondent herein as well as one Chellamuthu, while working in the appellants Corporation as Assistant Engineers, have resigned their employment and joined as Motor Vehicles Inspector Grade II on 15.10.2009 and 06.11.2009 respectively. However, after four years of their service as Motor Vehicles Inspector Grade-II, on the basis of the order passed by the Division Bench of this Court, allowing the writ appeal preferred by one Senthil Kumar in W.A. No. 2175 of 2011 dated 12.06.2012, their services were terminated on 28.06.2013. Aggrieved by the same, the first respondent herein filed WP No. 29955 of 2014 and the above said S. Chellamuthu has filed WP No. 12524 of 2014 before this Court. The writ petition filed by Chellamuthu was ordered on 27.09.2018 by directing the appellants to treat his resignation as one of Voluntary Resignation from service and to pay him all consequential benefits. Aggrieved by the said order, W.A. No. 1585 of 2019 was filed and by Judgment dated 18.06.2019, the order passed in the Writ Petition filed by



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Chellamuthu in WP No. 12524 of 2014 was modified directing the appellants to pay only the pensionary benefits based on the service rendered by him in the appellant Corporation. Following the said judgment of the Division Bench of this Court, the learned Judge directed the appellants herein to pay the pensionary benefits payable to the first respondent. In such view of the matter, we are not inclined to take any other decision than the one taken by the Division Bench of this Court in W.A. No. 1585 of 2019 in the writ appeal filed by the appellants herein.

7. At this juncture, the learned counsel for the first respondent produced an affidavit filed by the first respondent herein on 03.01.2023 wherein it is stated as follows:-

“6. I submit that this Hon'ble Court passed orders in my Writ Petition by stating that I have rendered 25 years of service in the Respondent Corporation from 01.02.1985 to 05.11.2009 (25 years) based on the orders passed by Hon'ble Division Bench of this Hon'ble Court in respect of Thiru.S.Chellamuthu, directing the Respondents to settle the pensionary benefits due to me including granting of regular pension, within a period of two months from the date of receipt of copy of the order.

7. I submit that as against the same, the Respondent Corporation has preferred the above Writ Appeal in W.A.No.1817 of 2021. The fact remains that in respect of Thiru.S.Chellamuthu, based on the orders passed in W.A.No.1585 of 2019 dated 18.06.2019, the Respondent Corporation issued orders disbursing pensionary benefits based on the service rendered in Transport Corporation from



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January 2020 onwards (date of his retirement).

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8. *I submit that in the said circumstances, I exercise option to consent for pensionary benefits with effect from 31.10.2020 onwards on par with Thiru.S.Chellamuthu, similarly placed person, from the date of retirement (April 2019). Accordingly, I hereby undertake to consent for availing pensionary benefits with effect from date of my retirement viz. 31.10.2020 onwards on par with similarly placed person Thiru.S.Chellamuthu.”*

8. Thus, it is evident that the first respondent-writ petitioner restricted his claim to the extent of granting pensionary benefits with effect from the date of his retirement viz., 31.10.2020 on par with similarly placed S.Chellamuthu.

9. In view of the above, the Writ Appeal stands disposed of by recording the affidavit dated 03.01.2023 filed by the first respondent herein. The said affidavit dated 03.01.2023 filed by the first appellant shall form part of the records. No costs. Connected C.M.P.is closed.

[R.M.D., J]

[M.S.Q., J]

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Index: Yes / No

Speaking order/ Non-speaking order

Neutral Citation: Yes / No



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- 1.The Principal/Secretary to Government,
Transport Department, Secretariat,
Fort St. George, Chennai – 600 009.
- 2.The Principal Secretary Transport Commissioner,
Chepauk, Chennai – 600 005.



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and
MOHAMMED SHAFFIQ, J

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