



WEB COPY

W.A.No.241



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.2418 of 2023
and
C.M.P.No.20250 of 2023

The Management,
Rep. by its Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division II) Limited,
Rangapuram, Vellore 632009.

..

Appellant

...VS...

1. The Principal Labour Court,
Vellore, Vellore District.

P.Munusamy (died)

2. Arputham
3. Shabina
4. M.Ashok
5. Asha
6. Usha
7. Divya

..

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order
dated 21.02.2023 passed in W.P.No.25489 of 2009.



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For Appellant : Mr.S.Pavithra
For Respondents : Mr.V.Subramani

J U D G M E N T

(JUDGMENT of the Court was delivered by **S.VAIDYANATHAN, J**)

Challenging the order passed by the learned single Judge dated 21.02.2023 in W.P.No.25489 of 2009, the Management has preferred the above Writ Appeal.

2. On 05.09.2023, this Court made the following suggestion:

“This is an appeal by the Transport Corporation. The workman breathed his last on 30.11.2017, *i.e.*, during the pendency of the writ petition, and his legal heirs are on record.

2 Mr. Sivaraman, learned counsel, accepts notice for RR 2 to 7 who are the legal heirs of the deceased workman.

3 Heard Mrs. S. Pavithra, learned Standing Counsel for the Transport Corporation and Mr. Sivaraman, learned counsel for the legal heirs of the deceased workman.

4 The only ground based on which the award of the Labour Court has been interfered with by the Single Bench is that eyewitness to the accident was not examined in the domestic enquiry. But, be it noted, in the light of the judgments of the Supreme Court in **State of Haryana and another v Rattan Singh (1977) 2 SCC 491** and **J.D. Jain v The Management of State Bank of India AIR 1982 (SC) 673**, hearsay evidence is permissible in a domestic enquiry. That apart, from the documents available before us, it is very clear that the workman had involved in as many as 13 misconducts, including 2 fatal accidents, for which, he was also inflicted with punishments. Since the workman is no more and his legal heirs are on record, we suggested to the Management as to whether the actual service about two decades



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rendered by the workman from 23.05.1981 to 25.11.2000 can be taken into account for the purpose of award of Gratuity and Family Pension.

Post on 14.09.2023.”

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2. Pursuant to the aforesaid suggestion made by this Court, the issue was placed before the Board of the Transport Corporation and the decision to extend the pension applicable for the actual services rendered by the workman *vide* communication dated 30.09.2023, addressed by the General Manager of the appellant Transport Corporation to the Standing Counsel, to that effect has been produced before this Court. For the sake of ease of reference, the same is scanned and reproduced as under:

TAMILNADU STATE TRANSPORT CORPORATION (VPM) LTD.
VELLORE REGION, VELLORE

Letter No 165/LI/TNSTC(VPM)/V.RGN/2002 Date: 30.09.2023

To:
TMT. S. PANITHRA,
No.427, New Law Chambers,
High Court, Chennai - 600 101.

Sir,

Sub: TNSC (VPM) Ltd Vellore Region - Legal Court matter W.A.No.2418/2023 filed by Corporation against W.P.25489/2009 - (P.Munusamy) - court order dated 05.09.2023 - consent to compulsory retirement - approval - forwarding - Reg.

Ref: 1. The orders of the Hon'ble High Court of Madras in W.A.No.2418/2023 dated 05.09.2023
2. Your Letter.

Amend the 2nd inf. cited, you have informed the Management consent to take actual service of the workman from 23.05.1981 to 25.11.2000 can be taken into account for the purpose of award of Gratuity and Family Pension in respect of Thiru. P.Munusamy, Ex Driver Staff No:05235.

In this connection, it is to state that we have given consent for compulsory retirement on the date of removal (i.e. 25.11.2000).

Terminal Commitment if we give compulsory retirement:-

TERMINAL BENEFITS	
Gratuity	Rs. 58,987/-
PF Amount as on 31.03.2022	Rs. 2,98,677/-
TOTAL COMMITMENT	Rs. 3,53,554/-

Pensionable Service: 17 years 1 Month 10 days (subject to audit)

Pension payable: Rs.7,437/- (as on 31.03.2023)

Pension arrears (subject to audit of Pension Trust) for the period from 26.11.2000 to 31.03.2023 Rs.13,76,876/-

Hence, we request you to communicate the above decision taken (i.e. date of removal taken as compulsory retirement) to Hon'ble High Court of Madras in next hearing.

Sd/- T.N.S.T.C. (VPM) Ltd.
Vellore Region.
GENERAL MANAGER



3. The learned counsel for the workman submitted that he has no objection for accepting the total commitment, however, interest on the same may be directed to be paid.

4. Be it noted, it is not a case of normal retirement. It is no doubt true that there is no cessation of employer - employee relationship and gratuity and Provident Fund amount due will have to be released unless it is withheld for the purpose of recovery. In this case, the Management had taken a decision that the Workman is not entitled to any relief. However, pursuant to the suggestion made by this Court, it has confined the relief only to one of compulsory retirement. As already stated, as the Provident Fund amount and gratuity amount have been agreed to be settled by the Transport Corporation on the suggestion made by this Court, the question of granting interest does not arise. Further, since the Management has agreed to extend pensionary benefits to the workman *vide* letter dated 30.09.2023 extracted above, the order of the learned Single Judge *qua* pensionary benefits, is modified to that effect. It is made clear that since Gratuity has already been agreed to be paid by the Transport Corporation, the same shall not be recovered.



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This Writ Appeal stands disposed of with the above observations. No costs.

Consequently, connected Miscellaneous Petition is closed.

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[S.V.N., J.] [K.R.S., J]

09.10.2023

Index: Yes / No

Internet: Yes / No

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To

The Principal Labour Court,
Vellore, Vellore District.



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S. VAIDYANATHAN,J.,
and
K.RAJASEKAR,J

arr

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