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WP.No.18600/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.18600/2017 & WMP.No.20141/2017

A.Vellayadevan

... Petitioner

Versus

1.Tamil Nadu State Transport Corporation
[Villupuram] Ltd., rep.by its
Managing Director, 3/137, Salamedu
Villupuram.

2.The General Manager
Tamil Nadu State Transport Corporation
[Villupuram] Ltd., Vellore Region
Rangapuram, Vellore-9.

3.Tamil Nadu State Transport Corporation
Employees Pension Fund Trust
rep.by its Administrator
Pallavan Salai, Chennai-2.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the order dated 25.02.2017 in Memo No.16792/Sa.6/TNSTC.2015 passed by the 2nd respondent, quash the same and consequently direct the respondents to allow the petitioner to retire from service on and from 28.02.2017 on reaching the age of superannuation, to issue him relieving order and to pay and settle the petitioner all the



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terminal/service benefits, by counting his entire service from October 1998 to the date of his superannuation on 28.02.2017, to pay the petitioner pension under the Tamil Nadu State Transport Corporation Employees Pension Rules, with effect from 01.03.2017 with arrears and other consequential benefits and also to pay him interest at the rate of 12% per annum for all the above benefits and award costs.

For Petitioner	:	Ms.V.Porkodi for Mr.R.Krishnaswamy
For Respondents	:	Mr.S.Pavithra Standing counsel

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to an order dated 25.02.2017 in Memo.No.167492/Sa.6/TNSTC/2015 passed by the 2nd respondent, the General Manager, TNSTC, Villupuram and to quash the same and to direct the respondents to allow the petitioner to retire from service on and from 28.02.2017 on reaching the age of superannuation and issue an order relieving him from service and to pay and settle all terminal benefits.
- (2) The petitioner was appointed as a Conductor in the year 1998. He and others were dismissed from service originally. Thereafter, they all raised an Industrial Dispute and took the matter before the Labour



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Court. The Labour Court had passed an Award directing the 2nd respondent herein to grant re-employment. The petitioner was granted re-employment on and from 1998. However, in spite of regularising the service of the petitioner, the 2nd respondent stated that the name of the petitioner had been sponsored through the Employment Exchange and therefore, the appointment to the post of Conductor was only on temporary basis. The petitioner was then given a posting at Tiruppathur Depot with effect from 29.12.2000. The Provident Fund Contributions were deducted from the salary of the petitioner from 29.12.2000. The petitioner's service was not regularised. It was ordered that he was a fresh appointee after 01.04.2003.

- (3) The petitioner was finally given time bound promotion with the designation 'Senior Conductor' after completion of six years of service. While working at Ambur, the petitioner and his wife signed as witnesses to a Power of Attorney given by one Pushpa and her two sons to and in favour of Mahendran. The said Power of Attorney was executed for a loan given by Mahendran for a sum of Rs.1 lakh to



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Pushpa and her sons. He had also taken blank cheques by way of security. Later, the said Mahendran appears to have filed a complaint under Section 138 of the Negotiable Instruments Act, as if the petitioner was the drawee of the cheque and claimed a sum of Rs.7/- lakhs and since, the cheque returned unpaid, necessary proceedings were initiated under Section 138 of the Negotiable Instruments Act, culminating in CC.No.131/2012 before the learned Judicial Magistrate No.1, Tiruppathur. By a judgment dated 23.05.2014, the petitioner was convicted and sentenced to undergo simple imprisonment for six months quite apart from payment of compensation of Rs.7 lakhs and in default, to undergo, simple imprisonment for three months. The petitioner filed an appeal in CA.No.17/2015 before the learned III Additional Sessions Judge at Vellore in Tiruppathur. It was dismissed by a judgment dated 04.01.2017. He had then filed Crl.RC.No.157/2017 before this Court. Neither of the learned counsels are able to definitely inform as to the result of the Criminal Revision Case.



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- (4) At any rate, owing to the conviction under Section 138 of the Negotiable Instruments Act, the petitioner was placed under suspension. He was not permitted to retire. This may not be proper since, though he had suffered an order of conviction, it would only be appropriate that the respondents conduct an enquiry and determine the circumstances under which the petitioner had been shown as a drawee of the cheque. The petitioner must be granted an opportunity to explain the circumstances surrounding his signature as witness to a Power of Attorney and the advantage taken of blank cheques which had been issued by the borrower Tmt.Pushpa. These are circumstances which should be examined by the respondents and they should have given an opportunity to the petitioner instead of keeping him permanently on suspension and not also permitting him to retire.
- (5) The order of suspension is therefore, interfered with by this Court and it is set aside. The respondents are directed to conduct an enquiry. Contributions made by the petitioner and the deductions made from his salary, may be paid to him. It is to be noted that the petitioner was not convicted for any offences relating to any acts of commission



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or omission during the course of employment. Therefore, he cannot be kept under permanent suspension. For the period of suspension, the petitioner should be paid subsistence allowance and later, the retirement benefits. So far as the deductions from the salary is concerned, the same are to be released to the petitioner. These amounts are to be paid within a period of twelve weeks from the date of receipt of a copy of this order. Necessary enquiry must be conducted and opportunity must be given to the petitioner and since the respondents, have not taken any steps at all, the enquiry must begin and to be concluded within a period of sixteen weeks from the date of receipt of a copy of this order.

- (6) The writ petition stands **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

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AP
Internet : Yes



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Tamil Nadu State Transport Corporation
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Villupuram.
- 2.The General Manager
Tamil Nadu State Transport Corporation
[Villupuram] Ltd., Vellore Region
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