



W.A.(MD)No.1386 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1386 of 2013
and
M.P.(MD)No.2 of 2013

P.Mathiyazhagan

...Appellant

/Vs./

The Management of Tamil Nadu
State Transport Corporation (Kubakonam) Ltd.,
Kumbakonam Region,
Rep.by its General Manager,
Kumbakonam.

...Respondent

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 12.12.2011 dismissing W.P.(MD)No.2330 of 2009 filed by the appellant and to direct the respondent to pay him all benefits including wages for the period from 11.07.2002 to 15.08.2011 as if he was continuing in his services from date of termination to the date of his retirement and to pay him all his terminal benefits.



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For Appellant : Mr.S.Arunachalam

For Respondent : Mr.D.Sivaraman

JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.**)

Read this order in conjunction with and in continuation of dated 11.07.2023, which reads as follows:

“At request of Mr.D.Sivaraman, learned counsel for the respondent to:

(i)file counter as the respondent had had no occasion to file counter at the time of disposal of the writ petition at admission stage;

(ii)ascertain whether the respondent would be inclined to consider the dismissal of the appellant as medical discharge as in that circumstance, the writ petitioner would be entitled to benefits under Rule 19 of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules, reading as follows:

“Benefits on permanent & total disablement and medically discharged during the employment

a)Permanent & Total Disablement

A member, who is permanently and totally disabled during the employment shall be, entitled to pension as per the following terms and conditions:

i)He should have rendered 10 years of qualifying service; A



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Member applying for the benefits under this paragraph shall be required to undergo such medical examination as may be prescribed by the Trustees to determine whether or not he or she is permanently and totally unfit for the employment which he or she was doing at the time of such disablement.

ii)He will be eligible for pension at 50% of the last drawn basic pay multiplied by actual service and divided by 30. No service weightage is admissible for such pensioner.

iii)If the disablement is curable and if the member refuses to get cured by operation of otherwise, then no pension need be paid, if the competent authority desires so, on merit.

The monthly member's pension in such cases shall be payable from the date following the date of permanent total disablement and shall be tenable for the lifetime of the member.

c)Medically Discharged Cases

In the case of employee who are medically discharged and are not re-employed, they are eligible for benefits under clause 19(a) above. If they are re-employed, they are eligible for continuity of membership and the benefits will be allowed only at the time of normal retirement by counting the past service also.”

2.List this Writ Appeal on 20.07.2023.”



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2. Communication dated 19.07.2023 has been circulated to the effect that the Management is inclined to consider the claim of the appellant under the head 'Compulsory Retirement' and not 'medical discharge'.

3. Learned counsel for the appellant, on instructions, conveys that this would suffice and the appellant thus does not press the writ appeal any further. A memo is filed to this effect, which has been placed on file.

4. Learned Standing Counsel for the respondent points out that as per Rule 19 (a) of the Tamil Nadu Transport Corporation Employees Provident Fund Rules, the appellant is entitled to 2/3rd of full pension, which shall thus be disbursed within a period of eight weeks from the date of receipt of a copy of this order.



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5. Recording the aforesaid position, this Writ Appeal is closed as not pressed reiterating the direction at paragraph 4 supra. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] & [R.V.J.]
20.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
sm

TO:

The Management of Tamil Nadu
State Transport Corporation (Kubakonam) Ltd.,
Kumbakonam Region,
Rep.by its General Manager,
Kumbakonam.



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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Judgment made in
W.A.(MD)No.1386 of 2013

Dated:
20.07.2023