



W.P(MD)No.21256 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.21256 of 2023
and W.M.P(MD)No.17658 of 2023

M.Jayachandran

... Petitioner

Vs.

1. Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Rep. by its Managing Director,
No.27, Railway Station New Road,
Kumbakonam – 612 001

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Trichy Region, Trichy

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees' Pension Fund Trust,
Thiruvalluvar House,
Anna Salai, Chennai – 600 002.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the order passed by the respondent No.2 herein in Ref.No.Th.Aa.Po.Ka/Trichy/Pa.Pi-Pi1/3053/2023 dated 31.05.2023, quash the same and consequently direct the



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respondents herein to settle all the retirement benefits to the petitioner including Gratuity, Provident Fund, Leave Salary, Full Pension and Commutation of Pension along with interest at the rate of 12% per annum for the belated settlement of retirement benefits within the stipulated time that may be fixed by this Court.

For Petitioner : Mr. D.Siva Raman
For R1 & R2 : Mr.K.Ramaiah
Standing Counsel for TNSTC
For R3 : Mr.S.C.Herold Singh

ORDER

The present Writ Petition has been filed by an Assistant Engineer of the respondent Transport Corporation challenging the conditional retirement order granted to him on 31.05.2023.

2. According to the learned counsel appearing for the petitioner, the petitioner along with 6 others had approached this Court in W.P(MD)No.6403 of 2021 seeking to set aside the seniority list prepared for promotion to the post of Assistant Manager. This Court by order dated 02.12.2022 allowed the said Writ Petition by setting aside the seniority list. Challenging the same, some third party had filed a Writ Appeal in W.A(MD)No.52 of 2023 and the



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Hon'ble Division Bench of this Court has granted an order of interim stay on 23.01.2023.

3. During the pendency of the said Writ Appeal, the petitioner retired from service on 31.05.2023 and the 2nd respondent, by the impugned order dated 31.05.2023 permitted the petitioner to retire on condition that his retirement is subject to the result of W.A(MD)No.52 of 2023. According to the learned counsel for the petitioner, W.A(MD)No.52 of 2023 is nothing to do with the disbursement of his terminal benefits or grant of pensionary benefits treating him as the Assistant Engineer.

4. Per contra, the learned counsel appearing for the respondents contended that whether the petitioner is entitled to be promoted or not could be ascertained only after disposal of W.A(MD)No.52 of 2023 and then only the respondents could disburse the pensionary benefits and other benefits. Therefore, the order has been passed by stating that the petitioner was permitted to



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retire subject to the result of W.A(MD)No.52 of 2023.

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5. I have heard the submissions made on either side and carefully perused the materials available on record.

6. It is true that the petitioner was working as Assistant Engineer for the past 10 years and as per the Tamil Nadu State Transport Corporation Common Service Rules, the persons, who are employed as Assistant Engineers upon completion of B.E. Degree in Mechanical Engineer having ten years of service, are eligible for promotion to the post of Assistant Manager in the ration 3 : 1 for panel, subject to regular vacancies. The petitioner had challenged the seniority list in W.A(MD)No.52 of 2023. Though the Hon'ble Division Bench has granted an order of interim stay, the Writ Appeal is still pending. In the meantime, the petitioner has attained the age of superannuation. Pendency of the Writ Appeal or challenging the seniority list is nothing to do with the disbursement of retirement benefits. In fact, if the petitioner succeeds in W.A(MD)No.52 of



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2023, the balance benefits could be conferred upon the petitioner depending upon the outcome of the Writ Appeal. That does not in any way bar or prohibit the management from disbursing the terminal benefits to the petitioner in the post of Assistant Engineer.

7. In view of the above stated facts, this Court issues the following directions:

- i) The impugned order passed by the respondent No.2 herein in Ref.No.Th.Aa.Po.Ka/Trichy/Pa.Pi-Pi1/3053/2023 dated 31.05.2023 is hereby set aside to the extent of imposing a condition that it is subject to the result of W.A(MD)No.52 of 2023;
- ii) The respondents are directed to disburse the terminal benefits and pensionary benefits treating the petitioner as he retired in the post of Assistant Engineer on 31.05.2023 along with interest at the rate of 6% from the date of retirement till the date of disbursement;



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iii) If the petitioner succeeds in W.A(MD)No.52 of 2023, the petitioner is at liberty to approach the respondents for disbursement of the balance amount.

iv) The said exercise shall be completed within a period of 12 weeks from the date of receipt of copy of this order.

8. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

11.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To,
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R.VIJAYAKUMAR, J.

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