



W.P.(MD).Nos.22825 and 22826 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.22825 and 22826 of 2016
and
W.M.P.(MD).Nos.19508 and 19509 of 2017**

W.P.(MD).No.22825 of 2016:

K.Manickavel

... Petitioner

Vs.

- 1.The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.
- 2.The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Region,
Trichy.
- 3.The Administrator,
Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 2.



W.P.(MD).Nos.22825 and 22826 of 2016

4.J.Padmarajan

5.V.Rajendran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the action of the respondents in denying 5th review to him with effect from 01.11.2013 and denying promotion to him to the post of Traffic Inspector with effect from 13.04.2015, the date on which his juniors were promoted, as illegal and contrary to settlements entered under Section 12(3) of the I.D. Act dated 22.01.2011 and 13.04.2015 and consequently direct the respondents to grant 5th review to him with effect from 01.11.2013 and to consequently promotion to him to the post of Traffic Inspector on notional basis with effect from 13.04.2015 and to pay attendant monetary benefits applicable for 5th review and promotion to the post of Traffic Inspector and further direct the respondents to re-fix the last drawn pay of the petitioner based on 5th review and promotion to the post of Traffic Inspector and to pay all attendant monetary benefits to thereon, together with interest, within a stipulated time that may be fixed by this Court.



W.P.(MD).Nos.22825 and 22826 of 2016

W.P.(MD).No.22826 of 2016:

K.Manickavel

... Petitioner

Vs.

1.The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.

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

3.The Administrator,
Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 2.

4.J.Padmarajan

5.V.Rajendran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the action of the respondents in treating 93 days of medical leave from 07.09.2011 to 26.09.2011 taken by the petitioner for the treatment of injuries sustained by him in the road traffic accident while in duty as leave on loss of pay and not counting the said period for the purpose of review, seniority, promotion and pension as illegal



W.P.(MD).Nos.22825 and 22826 of 2016

and contrary to Section 47 (1) of persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995 and consequently direct the respondents to treat the period of medical leave taken by the petitioner from 07.09.2011 to 26.09.2011 as duty and count the said period for granting the petitioner's review, promotion and pension and further directing the respondents to give the petitioner's attendant monetary, service benefits and difference in retirement benefits.

(In both Writ Petitions):

For Petitioner : Mr.A.Rahul
For R-1 and R-2 : Mr.D.Sivaraman,
Standing Counsel.
For R-3 : Mr.S.C.Herold Singh
For R-4 and R-5 : No Appearance

COMMON ORDER

The Writ Petition in W.P.(MD)No.22825 of 2016 is filed for Writ of Declaration to declare the action of the respondents in denying the 5th review to the petitioner as illegal



W.P.(MD).Nos.22825 and 22826 of 2016

2. The contention of the respondents is that the petitioner has attained superannuation and retired on 30.04.2015 and the petitioner is eligible for 5th review on 01.11.2016. Therefore, the petitioner's claim for granting 5th review will not arise, since the petitioner is already retired when the consideration for granting 5th review arises.

3. The prayer in the Writ Petition in W.P.(MD).No.22826 of 2016 is Writ of Declaration to declare the action of the respondents in treating 93 days of medical leave from 07.09.2011 to 26.09.2011 taken by the petitioner for the treatment of injuries sustained by him in the road accident as not in accordance to law.

4. The contention of the petitioner is that the road accident occurred on 20.08.2011 and the petitioner had availed medical leave from 07.09.2011 to 26.09.2011, which is treated as leave on loss of pay and the same was not counted for review benefits. The petitioner had retired from service in the year 2015. The petitioner has not taken any steps to regularize the said period as duty period while he was in service. After retirement, the Writ Petitions have been filed.



W.P.(MD).Nos.22825 and 22826 of 2016

WEB COPY

5. The contention of the respondents is that the petitioner is seeking to regularize the said period in order to obtain 5th review. Even if the claim of the petitioner is accepted, the petitioner will not be entitled for 5th review, because for considering 5th review, the petitioner should serve for another one year period. By regularizing the said 3 months period, the petitioner would not be entitled to 5th review. Therefore, it will be a futile exercise to consider the petitioner's case to regularize the said period.

6. This Court is not inclined to entertain the Writ Petitions. Hence, the Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).Nos.22825 and 22826 of 2016

To

WEB COPY

1. The Managing Director,
The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Kumbakonam.
2. The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Region,
Trichy.
3. The Administrator,
Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 2.



WEB COPY



W.P.(MD).Nos.22825 and 22826 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).Nos.22825 and 22826 of 2016

23.02.2023