



REV.APLC(MD)No.109 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**REV.APLC(MD)No.109 of 2018
and
CMP(MD)No.8172 of 2018**

1. The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Bye-Pass Road,
Dindigul-4.

2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bye-Pass Road,
Madurai.

... Petitioners

vs.

K.Rajendran

... Respondent

PRAYER : Petition filed under Order 47, Rules 1 and 2 of the Civil Procedure Code, against the judgment made in W.A(MD)No. 338 of 2015 dated 22.08.2017.

For Petitioner : Mr.A.Jeyaram
For Respondent : Mr.S.Govindan



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ORDER

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(Order of the Court was made by R.SUBRAMANIAN, J.)

Review is sought for by the Transport Corporation on the ground that the attention of the Division Bench was not drawn to Rule 15(e) of the Tamilnadu State Transport Corporation Employees Pension Fund Rules, 1998, which provides for forfeiture of past services upon resignation. The respondent/writ petitioner who was appointed as a Tradesman in the Tamilnadu State Transport Corporation, rendered 10 years of service and thereafter resigned to take up a better employment in the Education Department of the State. The writ petitioner claimed pension for the services rendered by him with the Corporation. The only contention that was raised before the Writ Court was that 10 years services was not completed. Therefore, the said contention was rejected by the Writ Court and the Writ Court directed payment of pension. A review petition was filed which was also dismissed. The said order was challenged in the appeal and even in the appeal, we do not find any issue relating to forfeiture of pension. The attention of the Division Bench was drawn only to Rule 19 of the Tamilnadu State Transport Corporation



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Employees Pension Fund Rules which entails, a disabled person, to pension after completion of 10 years of service.

2. Mr.A.Jeyaram, learned counsel appearing for the Corporation in this review petition would, however, draw our attention to Rule 15(e) of the Tamilnadu State Transport Corporation Employees Pension Fund Rules, 1998, to contend that the rules specifically provide for forfeiture of past services upon resignation. There is a proviso to the said rule which provides that if the resignee takes up a pensionable job after resignation, the pensionary benefits available with the employer will stand transferred to the new employer's pension fund/EP scheme 1995, as the case may be, and such benefits shall not be directly paid to the individual. Mr.Jeyaram would contend that the writ petitioner is not entitled to the benefit of the proviso also since he had not taken permission to join the Education Department.

3. In the light of the above rule position, we are constrained to allow the review petition. Accordingly, the Review Application is allowed. No costs. The order of the Division Bench dated



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22.08.2017 will stand set aside. Connected miscellaneous petition is closed.

4. Adverting to the writ appeal, we find that the contention of Mr.A.Jeyaram, learned counsel appearing for the Corporation has much force in it. The Rule 15(e) of the Tamilnadu State Transport Corporation Employees Pension Fund Rules, 1998, reads as follows:-

"Forfeiture of Service on Resignation :

Resignation from service or post entails forfeiture of past services.

Provided that a resignation shall not entail forfeiture of past service, if it has been submitted to take up with proper permission, another appointment, under Government Department/State Public Sector Undertaking/Board. In such case, the pensionary benefits shall be transferred to the new employer's pension fund/EP scheme 1995, as the case may be, and such benefits shall not be directly paid to the individual."

5. No doubt, as per the said rule, resignation would entail forfeiture of past services, however, considering the fact that the petitioner in the writ petition is 100% blind individual, we are of the opinion that he should get at least the benefits of that service



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rendered by him in the transport corporation. We, therefore, apply the proviso and direct the transport corporation to transfer the pension fund benefits of the writ petitioner available with it to the new employer namely, the Education Department. The Education Department will take into account the services rendered by the writ petitioner in the TNSTC while calculating the pension payable to him at the time of superannuation.

6. The Writ Appeal is disposed of with the above direction.
No costs. Connected M.P. is closed.

(R.SUBRAMANIAN, J.) & (N.SATHISH KUMAR, J.)
20.06.2023

Index : Yes / No
Neutral Citation : Yes / No
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