



W.P. No.23499 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.23499 of 2015

C.Thiagarajan

... Petitioner

Vs.

1.Tamilnadu State Transport Corporation
(Villupuram) Ltd. rep. by its Managing Director
Vazhuthareddy, Villupuram.

2.The General Manager
Tamilnadu State Transport Corporation
(Villupuram) Ltd., Cuddalore Region
Cuddalore.

3.Tamilnadu State Transport Corporations
Employees Pension Fund Trust, rep. by its
Administrator, Thiruvalluvar Illam
Anna Salai, Chennai 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring that the action of the respondents 1 and 2 in discharging the petitioner services from the post of Driver on medical ground and providing the petitioner alternative employment only as a fresh entrant Helper, without granting the petitioner continuity of service, pay



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protection and other service benefits from the date of giving him alternative employment as illegal and unconstitutional and consequently direct the respondents to give the petitioner continuity of service, pay protection and other service benefits together with arrears and P.F. Contribution from the date on which he was given alternative employment as a fresh entrant Helper to the date of the petitioner superannuation and to settle forthwith his terminal benefits and pension based on such revised pay payable to the petitioner as on the date of his superannuation and based on his entire service from 17.10.1985 to 31.05.2014, award costs.

For Petitioner : M/S.H.Nandhini for
M/S.R.Krishnaswamy

For Respondents : Mr.M.Aswin for R1, R2

Mr.C.S.K.Sathish,
Standing Counsel for R3

ORDER

The writ petition is filed praying for Writ of Declaration seeking continuity of service pay protection and all other benefits along with arrears in P.F. contribution from the date of the alternative appointment granted to the petitioner pursuant to the disability which he had suffered after having met with an accident up to the date of retirement and also to pay him revised terminal



benefits including monthly benefit pay counting his entire service.

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2. Today when the matter was called, the learned counsel for the petitioner submitted an affidavit before this Court wherein it has been stated by the learned counsel for the petitioner that with view to put quietus to the issue that the petitioner would confine his prayer with regard to continuity of service, pay protection and other service benefits from the date of discharge to the date of superannuation and to get notional fixation of pay so as to get revised terminal benefits and that the petitioner further agrees to forego arrears / monetary benefits / which may arise due to notional pay fixation and that he may be paid the employer contribution of PF alone with or without interest so as to get the entire benefits. The copy of the affidavit has also been served to the learned counsel for the respondents.

3. The learned counsel for the Respondent would submit that the alternate employment pursuant to the disability suffered by the petitioner due to the accident itself was out of sympathetic consideration and the petitioner having worked thereafter in the post of helper cannot claim the benefit of his past



services as a driver. Thus the prayer of the petitioner is liable to be rejected.

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4. Heard both sides and perused the material on record.

5. The above issue stands covered by a decision of the Division Bench of this Court in the case of *K.Vijayakumar v. Tamil Nadu State Transport Corporation* reported in (2014) 2 LLJ 465 wherein it has been held as under:

“23. It is to be pointed out at this juncture that the appellant/writ petitioner was appointed as Helper vide proceedings dated 16.06.2000 as fresh entrant by taking into consideration of his representation dated 25.01.1999. It is the stand of the respondents/management that the appellant having received the terminal benefits without any protest and also willing to forego his past services and prayed for appointment as Helper by way of fresh entrant, it was sympathetically considered and he was given the said employment and having worked for nearly 10 years, at the fag end of his career, has belatedly chosen to make a challenge and therefore, the same is unsustainable in law not only on the ground of delay and laches, but also on merits.

24. Disabilities Act is a beneficial legislation and the Courts, while interpreting such legislation, has to prefer that construction which helps to carry out the benevolent purpose of the Act and does not unduly extend the area or the scope of exception. The decisions of the Hon'ble Supreme Court of India as well as the decisions rendered by this Court as



cited above, would clearly indicate that Courts cannot shut its eyes if a person knocks at its door claiming relief under the Act and in a welfare State like India, benefits of benevolent legislation cannot be denied on the ground of mere hyper-technicalities and when the law maker conferred certain privileges on a class of persons, like a disabled person, duty is cast upon the judiciary to oversee that the authorities or the persons to whom such a power is conferred, enforce the same in letter and spirit for which such an enactment has been made.”

6. In view of the above, following the judgment of the Division Bench referred supra, this Court is of the view that the petitioner is entitled to continuity of service, pay protection and other service benefits from the date of discharge to the date of superannuation and to get notional fixation of pay so as to get revised terminal benefits. It may be relevant rather necessary to add that the petitioner further agrees to forego arrears / monetary benefits / which may arise due to notional pay fixation and that he may be paid the employer contribution of PF alone. The learned counsel for the 3rd respondent would request that the 1st respondent may be directed to pay contribution and arrears towards P.F. along with applicable interest. Without expressing opinion on the merits of the above claim. The 3rd respondent is at liberty to raise a demand of



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the amount due including contribution and arrears towards P.F. with the 1st respondent, if such request is made, the same shall be considered and any sum that are legally due to the 3rd respondent shall be paid by the 1st respondent within a period of 12 weeks from the date of demand. The benefits due to the petitioner shall be paid within a period of 16 weeks from the receipt of a copy of this order. Accordingly, the writ petition stands disposed of on the above terms. No costs.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Internet: Yes/No

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To:

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- 1.The Managing Director,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.
Vazhuthareddy, Villupuram.
- 2.The General Manager
Tamilnadu State Transport Corporation
(Villupuram) Ltd., Cuddalore Region
Cuddalore.
- 3.The Administrator,
Tamilnadu State Transport Corporations
Employees Pension Fund Trust,
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MOHAMMED SHAFFIQ

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