



W.P. No.18520 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18520 of 2017

K.Murugan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikkarai,
Bangaluru National Highways,
Kanchipuram.

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai, Chennai-600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of mandamus to direct the 1st respondent to settle the terminal benefits and to direct the 2nd respondent to pay pension to the petitioner.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.M.Aswin



ORDER

While the petitioner was working as Conductor with the respondent Corporation, he was subjected to disciplinary proceedings on the ground of unauthorized absence and accordingly an order dated 23.02.2012 was passed dismissing the petitioner from service. Thereafter, after a lapse of 32 days, an application was filed as required under Section 33 (2) (b) of Industrial Disputes Act, 1947 (in short 'ID Act') seeking approval of the Joint Commssioner of Labour wherein certain disputes were pending. The said approval petition was rejected by the Joint Commissioner of Labour by an order dated 06.06.2014. Aggrieved by the said order dated 06.06.2014, the respondent herein filed W.P.No.22703 of 2017, that is after a lapse of more than three years. The petitioner attained the age of superannuation by 30.11.2016. The said writ petition filed by the respondent vide W.P.No.22703/2017 was dismissed by the learned Single Judge of this Court by an order dated 23.08.2023 by following various decisions of the Hon'ble Apex Court.

2. In the meanwhile, the petitioner, on attained the age of superannuation and in view of the non-approval of dismissal order passed by



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the respondent herein, filed the present writ petition seeking a Mandamus directing the respondents to pay the terminal benefits of the petitioner consequent upon attaining the age of superannuation on 30.11.2016.

3. In response to the notice issued by this Court, the 1st respondent filed counter affidavit. There is no much dispute on the factual aspects. However, it is contented that the respondent herein, having been aggrieved by the dismissal order of W.P.No.22703 of 2017 filed Appeal in W.A.No.616 of 2024 and the same is pending for consideration before the learned Division Bench of this Court. On being asked, the learned counsel for the respondents informed that there is no interim order passed in the said writ appeal.

4. In the above admitted fact situation, the order of dismissal dated 23.02.2012 passed by the respondents was not approved by the competent authority as required under Section 33 (2)(b) of Industrial Disputes Act, 1947. Hence, the order of dismissal is non-est in the eye of law, for want of approval as required under Section 33 (2)(b) of ID Act.

5. As already noted, the said approval petition was dismissed by the competent authority on 06.06.2014. As a consequence, the respondent



Corporation ought to have reinstated the petitioner and continued him in service. But for the reasons best known, the respondent Corporation has not chosen to re-instate the petitioner into service. On the other hand, the respondent Corporation waited till the year 2017, and it is only after the petitioner attained the age of superannuation on 30.06.2016, filed W.P.No.22703 of 2017 before this Court questioning the order dated 06.06.2014 passed under Section 33 (2) (b) of ID Act.

6. Thus, there is any amount of negligence on the part of the respondent Corporation in prosecuting the matters. Further, the respondent Corporation has also not taken necessary steps for the disposal of the said writ petition and it is only by an order dated 23.08.2023, the said writ petition came to be dismissed and as stated above, an appeal is pending against the said order. Thus as on date, there is no order of dismissal and admittedly, the petitioner had attained the age of superannuation on 30.11.2016 itself. In the light of the admitted fact situation, the petitioner deemed to have been continued in service notwithstanding the passing of the dismissal order and deemed to have been retired on attaining the age of superannuation on 30.11.2016.



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7. The contention of the learned counsel for the respondent that the respondent Corporation will settle the terminal benefits of the petitioner basing on the result of W.A.No.616 of 2024 is concerned, in the considered view of this Court, the same cannot be accepted for the simple reason that the respondent Corporation is totally negligent in pursuing the matter. As noted above, the respondent Corporation also failed to obtain any interim order in the above Writ Appeal. Thus, there is no legal basis for the respondents to deny the payment of terminal benefits to the petitioner.

8. Therefore, this Court does not see any legal impediment for issue of writ of mandamus directing the respondents to pay all the terminal benefits consequent upon the petitioner attaining the age of superannuation on 30.11.2016. At this stage, it is also relevant to notice that the computation petition No.56 of 2018 filed by the petitioner before the Labour Court, Kancheepuram, was also ordered on 01.09.2022 to pay the backwages and writ petition was filed against that order vide W.P.No.35106 of 2022 is pending before this Court and the respondent herein has already deposited an amount of Rs.2,50,000/- to the credit of the above computation petition and



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the same is lying in credit of the said computation petition as on date. As the issue of backwages is the subject matter of Computation petition No.56/18 and W.P.No.35106 of 2022, this Court is not dealing with the same in the present writ petition and it is open for the petitioner to pursue his remedy in the W.P.No.35106 of 2022. Insofar as the terminal and retirement benefits of the writ petitioner are concerned, in the absence of any legal impediment, this Court is of the considered view that the mandamus is bound to be issued directing the respondents to settle all the terminal benefits of the petitioner.

9. Accordingly, this writ petition is allowed directing the respondents to settle all the terminal benefits of the petitioner consequent upon the petitioner attaining the age of superannuation on 30.11.2016 as expeditiously as possible at any rate within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. Consequently, the connected miscellaneous petitions, if any, shall stand closed. No costs.

12.06.2024



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Index : Yes/No
Speaking Order : Yes/No
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MUMMINENI SUDHEER KUMAR,J.

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