



W.A(MD)No.1081 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1081 of 2024
and
C.M.P(MD)No.8131 of 2024**

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Tiruchirappalli.

... Appellant/Petitioner

VS.

A.Sivalingam

... Respondent/Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 06.04.2023 made in W.P(MD)No.24233 of 2018 on the file of this Court.

For Appellant

: Mr.SC.Herold Singh

For Respondent

: Mr.S.P.Vijay Nivas



W.A(MD)No.1081 of 2024

WEB COPY

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.]

This Appeal has been directed against the order passed by the Writ Court, dated 06.04.2023 made in W.P(MD)No.24233 of 2018.

2.That the respondent/writ petitioner was a Driver working in the appellant Department ie., the Tamil Nadu State Transport Corporation (Kumbakonam) Limited, he was involved in an accident, pursuant to which, disciplinary proceedings were initiated, ultimately, he was removed from service, as against which, he raised an industrial dispute and that was converted into I.D.No.3 of 2011 on the file of the Labour Court, Tiruchirappalli.

3.The Labour Court, Tiruchirappalli, has passed an award on 23.02.2017 whereby, the punishment of removal of service imposed on the respondent/employee by the appellant/employer was set aside and during the meantime, since he attained the superannuation in the year 2013 itself, his entire service shall be calculated till his superannuation for the purpose of conferring all service or retirement and pensionary benefits. That is how



W.A(MD)No.1081 of 2024

WEB COPY

the award was passed. The said award was under challenged before the writ Court in W.P(MD)No.24233 of 2018.

4.The learned writ Court, having considered the Labour Court award and the stand taken by both sides, was pleased to pass an order on 06.04.2023 whereby, the punishment inflicted against the respondent of removal of service has been modified into compulsory retirement and also the Writ Court directed the appellant to pay pensionary benefits with interest and also other retirement benefits.

5.Aggrieved over the same, the present Appeal has been directed by the appellant Transport Corporation.

6.Heard Mr.SC.Herold Singh, learned standing counsel appearing for the appellant and Mr.S.P.Vijay Nivas, learned counsel appearing for the respondent.

7.Though arguments were advanced by both sides and at one point of time, the learned counsel appearing for the respondent/employee has come out and saying that by virtue of the modified punishment of



W.A(MD)No.1081 of 2024

WEB COPY

compulsory retirement, the respondent/employee would not get the full pension and he would get only 2/3 pension with corresponding retirement benefits. Though the learned writ Court has directed the appellant/employer to pay interest for the arrears of pension, in order to purchase piece and to give a quietus to the litigious area as the respondent/employee is 70+ years old, the learned counsel appearing for the respondent, on instructions, would submit that even the respondent is ready and willing to give up the interest portion, that has been allowed by the learned Judge through the impugned order.

8. Even then, though the learned standing counsel appearing for the appellant is not agreeing for any compromise order and since he stick on with the stand taken by the appellant/Department that the order passed by the writ Court even inflicting the modified punishment of compulsory retirement is erroneous, we are of the view that insofar as the stand that has been taken by the appellant Transport Corporation before the M.C.O.P Tribunal was fully in support of its employee, ie., the respondent, though that cannot be taken as a conclusive evidence or proof to come to a conclusion that whether the charges framed against the respondent/employee has been proved or not even otherwise or



W.A(MD)No.1081 of 2024

WEB COPY

independently, the finding given by the Labour Court as well as the reasoning given by the learned Judge through the impugned order are to be taken note of.

9.The respondent/employee having served for 30 years to the appellant Corporation cannot be sent with empty hands, as the respondent/employee is already in the advanced age of his life and would be greatly prejudiced as he would not meet both ends without the minimum support of atleast 2/3 pension. At this stage, the respondent also has come forward to give up the interest portion also, therefore, that should also be taken note of and hence, we are of the view that this Writ Appeal can be disposed of with the following orders:

'(i) The statement given by the learned counsel appearing for the respondent to give up the interest portion, as allowed by the learned Judge of the writ Court through the impugned order, is taken on record.



WEB COPY

W.A(MD)No.1081 of 2024

(ii) Resultantly, there shall be a direction to the appellant to release the pensionary benefits ie., 2/3 pensionary benefits and related other retirement benefits payable to the respondent treating his punishment as a modified punishment of compulsory retirement and accordingly, that arrear shall be paid by the appellant Corporation to the respondent without any interest, within a period of three months from the date of receipt of a copy of this order and the respondent shall continue to receive 2/3 pension correspondingly till his lifetime/entitlement.'

10. With these directions, the order passed by the writ Court is slightly modified to the extent indicated above and accordingly, this Writ Appeal is partly allowed to that extent. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
ps

[R.S.K.,J.] [G.A.M.,J.]
02.07.2024



WEB COPY



W.A(MD)No.1081 of 2024

To

The Managing Director,
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ORDER MADE IN
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DATED : 02.07.2024