



W.A.(MD)No.222 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 27.11.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A.(MD)No.222 of 2022

C.Rajendran

.... Appellant/Writ Petitioner

Vs.

The Management of Tamil Nadu State
Transport Corporation (Madurai) Limited,
Madurai Region,
Rep. by its General Manager (Corporate),
Madurai.

....Respondent/respondent

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent
against the order passed in W.P.(MD)No.1879 of 2015, dated 02.12.2020.

For Appellant : Mr.A.Rahul

For Respondent : Mr.K.Ramaiah,
Standing Counsel



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JUDGMENT

(Judgment of this Court was delivered by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The appellant/writ petitioner herein was appointed as Driver in TNSTC, Madurai on 28.12.1989. The bus driven by him met with an accident on 28.03.1993. His limbs were crushed. He was therefore medically discharged from 16.06.1998. Thereafter, he was re-employed as Helper as a fresh entrant on 04.04.2000. The petitioner reached the age of superannuation on 30.06.2014.

3. Contending that he was denied the statutory benefit conferred by Section 47 of the Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995, the petitioner filed W.P.(MD)No.1879 of 2015. The writ petition was dismissed by the learned Single Judge on 02.12.2020 on the ground of delay and laches. Questioning the same, this writ appeal came to be filed.



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4. We are clearly of the view that the question of laches will not arise at all in this case. Admittedly, the petitioner reached the superannuation only on 30.06.2014. The writ petition was filed in the year 2015 itself. One can demand appropriate fixation of pension only on reaching the age of retirement/superannuation. Therefore, the appellant could not have been non-suited on the ground delay and laches.

5. The learned counsel for the appellant/writ petitioner drew our attention to the decision reported in 2014(2) LNN – 753 (DB). The Hon'ble Division Bench held that Section 47 of the Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995 will have to be applied with full force and that the question of waiver and estoppel will not arise at all. The management erred in taking the appellant as a fresh entrant. While the appellant ought to have been allotted light duty, he should have also been given pay protection and continuity of service.

6. Proper fixation of pension is one thing ; payment of salary arrears is another. The petitioner will have to be treated as a driver throughout. In other words, the commencement of service has to be



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reckoned with effect from 28.02.1989. The management will have to notionally refix the petitioner's pay and based on the same rework his pension and other terminal benefits. The question of paying salary arrears will not arise. The terminal benefits payable to the appellant/petitioner shall be settled within a period of 16 weeks from the date of receipt of a copy of this order. The order impugned in this writ appeal is set aside.

7. The Writ Appeal is allowed on these terms. No costs.

(G.R.S., J.) & (R.P., J.)
27.11.2024

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

RM



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