BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.02.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

W.A.(MD)No.1588 of 2016

Natarajan : Appellant/Respondent

Vs.

1.Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
rep. by its Managing Director,
New Railway Station Road,
Kumbakonam.

2.Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Tiruchirappalli Region,
rep. by its General Manager,
Periya Milaguparai,
Tiruchirappalli – 1. : Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 29.09.2015 passed in W.P.(MD) No.17493 of 2015.

For Appellant : Mr.S.K.Mani

For Respondents : Mr.S.C.Herold Singh

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JUDGMENT

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

The appellant, as the writ petitioner, has filed the writ petition in W.P(MD)No.17493 of 2015 challenging the impugned order dated 12.09.2013 imposing the punishment of stoppage of increment for two years with cumulative effect. The Writ Court, by order dated 29.09.2015, dismissed the writ petition on the ground that the appellant/petitioner has not come to the Court immediately after passing the impugned order and there is a huge unexplained delay of three years and that apart, the order stopping increment for a period of two years with cumulative effect was valid and implemented due to passage of time. Challenging the same, the appellant/writ petitioner has filed the present writ appeal.

2. According to the appellant/writ petitioner, he was a driver in the respondent Corporation. While so, he was given show cause notice dated 02.12.2012 in respect of the accident occurred on 21.11.2012. On 21.11.2012, he took the trip from Tiruchirappalli Central Bus Stand by 05.35 p.m and he was proceeding on the four land National Highways NH 45 in the first track which is away from the median. When he was near Azad road, a female child

aged about 3-1/2 years suddenly ran across the four lane road. Since the child was running across and as he was in the first track, the conductor shouted and he also noticed to his dismay the running female child. Immediately, he swerved the vehicle to his right side so as to avoid the child and stopped the vehicle. However, unfortunately, the said child without least realising that the express bus that he was driving on the move on the highway, ran fast despite the stopping of the vehicle in the manner described by him and the child hit the left side body of the bus in the gap between the front step and the front wheel. Immediately, the child was taken to the Hospital, however, she died. Hence, on 26.11.2012, the appellant/petitioner was placed under suspension and domestic enquiry has been initiated against him. A criminal case has also been registered against the petitioner and the same was taken on file as C.C.No.195/2014 by the Judicial Magistrate, Manapparai. In the said criminal case, the appellant/petitioner was acquitted.

3. According to the appellant/petitioner, in the departmental enquiry, the appellant/petitioner was given punishment of stoppage of increment for two years with cumulative effect. The punishment was imposed on 12.08.2013 and his superannuation was on 30.09.2013. According to him, the punishment was to be cancelled, however, the respondent Management did not consider the

same. Later on, the same was considered by the appellate authority and the appellate authority has passed order on 12.09.2013 by reducing the period of postponement from two year to 18 months with cumulative effect, however, it could not be implemented since the petitioner was superannuated on 30.09.2013.

4. According to the petitioner, when he was allowed to retire, there cannot be any cut in increment and as such, the punishment imposed on him has to be quashed. As on date, the petitioner has no due to the respondent Corporation.

5. According to the respondent Corporation, a sum of Rs.48,276/- has to be deducted from the petitioner's amount, which is unsustainable loss to the Mangement. Apart from the said amount, the respondents cannot demand anything from the petitioner as he has been retired from service.

6. According to the respondent, the Writ Court has not considered the above aspects since the petitioner has already been retired and he filed an appeal and the same was pending and hence, he approached the Court with the delay. Hence, the Writ Court has not taken the other aspects and only dismissed

the writ petition on the ground of delay.

7. The Court considered the other aspects. After retirement, there cannot be any cut in increment and the deduction from the salary does not arise and it is only a penal action committed by the authorities and the gratuity amount is fixed amount and there cannot be any ground to withhold the said amount. We are of the view that after retirement, gratuity amount cannot be withheld and it should be given immediately after the retirement.

8. In view of the above, we direct the respondent to disburse the gratuity amount and other benefits available to the appellant/petitioner within a period of eight weeks from the date of receipt of a copy of this order. If at all any amount to be deducted from the appellant/petitioner, it will be deducted in faced manner.

9. With the above direction, this Writ Petition is partly allowed. No costs.

[V.B.S.,J.] [K.K.R.K.,J.]
23.02.2024

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

V.BHAVANI SUBBAROYAN, J.

and

K.K.RAMAKRISHNAN, J.

skn

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