



WP(MD)Nos.24632 and 24893 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)Nos.24632 and 24893 of 2022
and
WMP(MD)No.18993 of 2022**

A.S.Asokan

... Petitioner

Vs

**1.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd,
Dindigul Region,
Dindigul.**

**... Respondent in
WP(MD)No.24893 of 2022**

**2.The Administrator,
Tamil Nadu State Transport Employee's Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai, Chennai – 2.**

**...Respondents in
WP(MD)No.24632 of 2022**

PRAYER in WP(MD)No.24632 of 2022 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to release the benefits of the petitioner namely gratuity and 25% of pension along with the arrears of the same from January, 2019 together with 18% interest p.a within a time frame as may be fixed by this Court.



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PRAYER in WP(MD)No.24893 of 2022 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus after calling for the records relating to the impugned order of the respondent passed in reference LD 4 TN1807 dated 31.05.2022, quash the same and consequently to direct the respondents to treat the period from 06.01.2018 to 15.05.2018 as the working days of the petitioner in all respects and to give him all consequently / monetary benefits.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.S.C.Herold Singh,

in WP(MD)No.24893 of 2022

Mr.S.Ramachandran

RR1&2 in WP(MD)No.24632 of 2022

ORDER

The petitioner was a Senior Grade Tradesman in the respondent Transport Corporation and he has been allowed to retire on attaining the age of superannuation on 31.12.2018. He has filed WP(MD)No.24893 of 2022, challenging the order of punishment of fine of Rs.500/- and treating the suspension period as leave period on the ground that the punishment order has been passed without any authority, after his retirement. He has filed WP(MD)No.24632 of 2022 for a mandamus to the respondents to release the withheld monetary benefits due to the petitioner.



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2.The learned Counsel for the petitioner submits that the petitioner along with other employees had participated in the strike on 05.01.2018. Therefore, departmental proceedings was initiated as against this petitioner. Pending the departmental proceedings, he was allowed to retire on attaining the age of superannuation on 31.12.2018. After the petitioner's retirement, order of punishment was passed, imposing a fine of Rs.500/- and treating the suspension period as eligible leave period, for having participated in the strike held on 05.01.2018. The criminal case registered as against the employees was quashed by this Court vide order dated 18.03.2022 in CrIOP(MD)No.5099 of 2022.

3.The learned Counsel for the petitioner submits that the respondents are not having any authority to impose punishment on the employee after his retirement. Therefore the punishment order is liable to be set aside. He further submits that since the punishment order was passed without any authority, withholding of the monetary benefits payable to the employee who had been allowed to retire on superannuation on 31.12.2018 is unsustainable. Therefore, the petitioner has submitted representation to the respondents to release all the monetary benefits to him and has approached this Court.



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4.The learned Counsel for the respondents submits that the petitioner and others had involved in the strike on 05.01.2018. The petitioner had prevented the other employees from doing their duty. Therefore, a criminal case was registered as against this petitioner and other employees. Simultaneously departmental proceedings were initiated by issuing a charge memo. The learned Counsel by referring to the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules [TNSTC EPF Rules] submits that Rule 19(c) of the TNSTC EPF Rules enables the respondents to withhold the retirement benefits after an employee's retirement. According to him Rule 9 of the Tamil Nadu Pension Rules, 1978 is applicable to the employees of the respondent Transport Corporation. The learned Counsel further submits that though a decision was taken in the Settlement not to impose punishment on the employees who have participated in the strike, it will not be applicable to the petitioner, since he had prevented others from discharging their duty and a criminal case has also been registered in this regard.

5.This Court considered the rival submissions and perused the materials placed on record.



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6.The petitioner an employee of the respondent transport corporation was allowed to retire on 31.12.2018. Admittedly this impugned order of punishment was passed on 31.05.2022, after his retirement. The learned Counsel for the respondents justified the order of punishment by referring to Rule 19(c) of the TNSTC EPF Rules, which reads as follows:

“Rule 19(c) Right of STUs/ TNSTC- EPFT to withhold or withdraw the pension after retirement.

(i) to withhold or withdraw of pension of employee of any category, after retirement, the provision of rule 9 of Tamil Nadu Pension Rules, 1978 should be followed.

(ii) withhold or withdraw of pension shall be effected after prior approval of government.

(iii)Competent Authority to withhold or withdraw pension for different categories of posts in the State Transport Undertaking:

<i>S. No</i>	<i>Category of posts in the STVs</i>	<i>Competent Authority</i>
<i>1</i>	<i>Senior Deputy Manager and Manager</i>	<i>Government</i>
<i>2</i>	<i>Assistant Manager & Deputy Manager</i>	<i>Managing Director</i>



3	<i>Below the level of Assistant Manager Posts and working group</i>	<i>General Manager</i>
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7.The above rule enables the Corporation to initiate departmental proceedings even after retirement, however any order of punishment of withhold or withdrawal of pension is permissible with the concurrence of the Government.

8. It appears that a decision has been taken by the respondent Corporation in the settlement arrived at on 24.08.2022 between Corporation and the trade unions to drop the disciplinary proceedings initiated as against the employees who have participated in the strike in between 2011 and 2021 and to treat the suspension period and the absence period as duty period. In view of the settlement, the punishment imposed on petitioner is liable to be set aside. Accordingly WP(MD)No.24893 of 2022 is allowed and the impugned order is set aside.

9.Further the respondents can only withhold the benefits only after



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prior approval of the government as per Rule 19(c) of TNSTC EPF Rules. In this case no such prior approval has been obtained from the government. However it is reported that the respondent Corporation is withholding a portion of the monetary benefits due to the petitioner.

10. In view of the above discussion, WP(MD)No.24632 of 2022 is also allowed and the respondent is directed to settle the amount payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

25.11.2024

Internet : Yes / No

DSK
To

1.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd,
Dindigul Region,
Dindigul.

2.The Administrator,
Tamil Nadu State Transport Employee's Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai, Chennai – 2.

B.PUGALENDHI.J.,



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