



W.A.(MD)No.793 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.793 of 2017

and

C.M.P.(MD)no.5616 of 2017

The Managing Director,
M/s.Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye-pass Road,
Madurai 625 016.

...Appellant

/Vs./

K.Ashokan

...Respondent

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the writ appeal and to set aside the order passed by this Court in W.P.(MD)No.16465 of 2012 dated 18.02.2015.

For Appellant : Mr.A.Jeyaram

For Respondent : Mr.A.K.Thangavelu
for Mr.A.Rahul



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JUDGMENT

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

Challenging the order passed by the learned Single Judge of this Court in W.P.(MD)No.16465 of 2012 dated 18.02.2015, the Transport Corporation has preferred this writ appeal.

2. The case of the writ petitioner is that he joined in the service of the Transport Corporation on 11.02.1980 as Clerk and he retired from service on 30.04.2012 as a Senior Assistant (Miscellaneous). A scheme called 'Longevity Pay Scheme' is in vogue in the Corporation, under which, review benefits are being sanctioned to all the categories of the employees with higher scale of pay and elevation to the next higher post within the prescribed working group on completion of prescribed length of qualifying service. As per the said scheme, the writ petitioner was also sanctioned 4th review benefits. Seeking 5th review benefits and consequential benefits, the writ petitioner came before this Court by way of the writ petition, which was also allowed by directing the Transport



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Corporation to pay the 5th level review benefit to the writ petitioner, challenging the same, the Transport Corporation has filed this appeal before this Court.

3. The learned counsel appearing for the appellant / Transport Corporation submits that since the writ petitioner was not in service as on 01.05.2012 and he was superannuated on 19.04.2012, he is not entitled for the annual increment for the period from 01.05.2011 to 30.04.2012. He further submits that new review benefits have already been availed by the writ petitioner. In case the writ petitioner is in continued service, then annual increment will be sanctioned. But he was superannuated on 19.04.2012 itself and retired from service on 30.04.2012. Hence, he prayed for dismissal of the order passed in the writ petition.

4. The learned counsel appearing for the respondent submits that the writ petitioner / respondent is entitled for 5th level review benefits for the period from 01.05.2011 to 30.04.2012, since he was superannuated only on 30.04.2012. He also relied upon the judgment of



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this Court in the case of **N.S.Rangaswamy vs. Director of High School Education and Others** reported in **2011 Writ L.R. 728**.

5. This Court considered the rival submissions made on either side.

6. A perusal of the judgment of this Court relied upon by the learned counsel appearing for the respondent in the case of **N.S.Rangaswamy vs. Director of High School Education and Others** reported in **2011 Writ L.R. 728**, clearly shows that there is no rule which stipulates that an employee must continue in service for getting the benefit of increment for the services already rendered by him and that the petitioner's accrued right cannot be denied at all.

7. We are, therefore, of the view that the learned Single Judge was right in allowing the Writ Petition directing the Transport Corporation to pay the 5th level review benefit to the writ petitioner / respondent and we do not see any reason to interfere with the judgment



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of the learned Single Judge. The Writ Appeal therefore fails and it is accordingly dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(V.B.S.J.) & (K.K.R.K.J.)
06.03.2024

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



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V.BHAVANI SUBBAROYAN, J.
and
K.K. RAMAKRISHNAN, J.

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W.A.(MD)No.793 of 2017

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