



W.A.(MD)No.1601 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.06.2025

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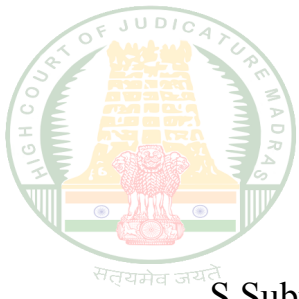
**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1601 of 2025
and
C.M.P.(MD)No.9034 of 2025**

- 1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye pass Road,
Chennai - 625 016.
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul - 624 004.
- 3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai, Chennai - 02.
- 4.The Deputy Manager,
Provident Fund Department,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Madurai - 16.

... Appellants

Vs.



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S.Subramani

... Respondent

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Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.22647 of 2024 dated 31.07.2024 on the file of this Court.

For Appellants : Mr.S.C.Herold Singh

For Respondent : Ms.D.Ramya

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.S.Subramani joined the appellant transport corporation as Conductor in the year 1982. He became member of provident fund trust in the year 1984. He was charged with misappropriation of a sum of Rs.16/- and dismissed from service on 19.12.2005. Challenging the same, he raised an industrial dispute and it was taken on file by the Labour Court, Madurai in I.D.No.26 of 2008. The Labour Court passed award dated 29.04.2010 holding that Subramani was not guilty of any misappropriation but only negligence and the dismissal order was set



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aside. He was ordered to be reinstated in service without backwages but with continuity of service. Aggrieved by the award of the Labour Court dated 29.04.2010, the management filed W.P.(MD)No.545 of 2011. The writ petition was dismissed on 30.01.2017 and the award of the Labour Court was confirmed. Even though the Writ Court directed reinstatement of Subramani, he could not be reinstated since he had already reached the age of superannuation on 31.07.2014. Subramani sought settlement of his pensionary and other terminal benefits. The management took the stand that they will take into account only 24 years of his service for the purpose of pension and other benefits. Challenging the same, Subramani filed W.P.(MD)No.22647 of 2021. The said writ petition was allowed in the following terms:

“20. For the aforementioned reasons and on consideration of the judgment of the Hon'ble Apex Court and the order of this Court stated supra, in the considered opinion of this Court, once the Labour Court has gave a categorical finding that the punishment of dismissal from service imposed by the 2nd respondent is unjustified, observing that the charge of misappropriation attempt was not at all proved in the domestic enquiry, the petitioner is entitled for continuity of service automatically.



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21. Accordingly, this Writ Petition is allowed and the award of the Labour Court shall stand modified as under:

“The petitioner is entitled to be reinstated with continuity of service without back wages and the petitioner is also entitled to all attendant benefits, which is the consequence of counting of the entire past service on his retirement.”

7.Fully fortified by the aforesaid order cited supra, this Court hereby quash the impugned order in Order No.DGL3536, signed on 23.01.2019 and the consequential proceedings in Parvai/Va.Vai.Nithi/PPO3536, dated 07.10.2021 and direct the respondents to settle the pensionary and terminal benefits for the service rendered by the petitioner for a period of 32 years 4 months from 22.03.1982 to 31.07.2014, deducting the terminal benefits already disbursed, if any, within a period of 12 months from the date of receipt of copy of this order.”

Aggrieved by the same, the management has filed this writ appeal.

3.We fully endorse the contentions of the learned standing counsel for the corporation that when once the award of the Labour Court was already confirmed in W.P.(MD)No.545 of 2011 on 30.01.2017, the learned Single Judge could not have re-written the terms of the award in a collateral proceeding. We, therefore, set aside the modification of the



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award set out in Paragraph No.21 of the order now under challenge before us.

4.Two questions arise before us. The first question is regarding the number of reckoning years of service for the purpose of pension and the second question is the number of years of service to be reckoned for the purpose of other benefits.

5.As regards the second issue, we are in no doubt. The Labour Court had categorically held that the employee will be entitled to reinstatement together with continuity of service. Therefore, the entire 32 years and 4 months from 22.03.1982 to 31.07.2014 will be reckoned for the purpose of settling the writ petitioner's terminal benefits. We decline to interfere with this part of the order passed by the learned Single Judge.

6.As regards pension, we have to take note of the fact it is rather contributory in nature. For the period, from the date of dismissal till the date of passing the award by the Labour Court, the writ petitioner had not



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made any contribution towards his pension. The employee also failed to obtain suitable direction in this regard either from the Labour Court or from the Writ Court. Therefore, the period, from the date of dismissal till 29.04.2010, will not count for pensionary benefits. The writ petitioner still had balance four years left after passing of award till he reached the age of superannuation. This period has to be necessarily counted for the purpose of pension.

7. With the aforesaid modification, this writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
18.06.2025

NCC : Yes/No
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