



Rev.Aplc(MD).No.69 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.10.2025

PRONOUNCED ON : 30.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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S.Moorthy

....Review Petitioner/Respondent

Vs

1.The Administrator

TNSTC Employees Pension Fund Trust

Thiruvalluvar House, Pallavan Salai

Chennai 600 002

....Respondent/Appellant

2.The Managing Director

Tamil Nadu State Transport Corporation (Madurai) Ltd.

Bye-Pass Road, Madurai – 16

3.The General Manager

Tamil Nadu State Transport Corporation (Madurai) Ltd.,

Dindigul Region, Bye- Pass Road

Dindigul – 4

....Respondents/Respondents



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Prayer: The First Appeal filed under Section 114 Read with Order 47 Rule 1 of C.P.C, to set aside the order dated 30.04.2021 passed in W.A(MD).No.410 of 2020 on the file of this Court.

For Appellant : Mr.S.Govindan

For Respondents : Mr.M.Ajmalkhan
Additional Advocate General
Assisted by Mr.S.C.Herold Singh
Standing Counsel

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The first respondent in WA(MD).No.410 of 2020 has filed this application seeking to review the order dated 30.40.2021.

(A).Facts leading to the filing of the present review application are as follows:

2.The review applicant herein, who was working as a driver in the respondent Transport Corporation submitted his resignation letter on 23.08.2012 and it was accepted on 05.07.2014. The retirement benefits were not settled. The employee submitted a representation on 07.12.2017 for sanction of pension and other benefits. Since the said request was not considered, the employee filed WP(MD).No.4140 of 2018 seeking a mandamus to sanction pension and other benefits with effect from 05.07.2014. The said writ petition was allowed on 04.06.2018 with a



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direction to the Transport Corporation to treat the petitioner as to have voluntarily retired on 05.07.2014 and to disburse the benefits.

3.The Transport Corporation had filed a Review Application No.35 of 2019 seeking to review the above said order on the ground that the petitioner is not eligible to go on a voluntary retirement as per the Standing Orders. This contention was accepted by the writ Court and the writ Court observed that since the employee had put in only 11 years of service, he cannot claim that should be deemed to have voluntary retirement on 05.07.2014. However, the writ Court passed an order directing the Transport Corporation to disburse the pension on the ground that the employee had completed 10 years of service and therefore, he is entitled to receive minimum pension. Since the writ order was modified by way of an order passed in the review application, the review of order was put to challenge by the Transport Corporation in WA(MD).No.410 of 2020.

4. A Co-ordinate Bench of this Court found that the employee, having resigned from service and his resignation having been accepted, would not be entitled to receive any pension. The employee was also not eligible under the relevant Rules to go on a voluntary retirement.

5.Based on the above said findings, the Writ Appellate court set aside the order passed by the writ Court in the review petition. Challenging the order of the Co-ordinate Bench in the writ appeal, the present review



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application has been filed by the employee.

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(B).Submissions of the learned counsel appearing on either side:

6. According to the learned counsel for the review applicant, due to the height of the employee, he was not able to drive the vehicle for longer time and he had developed spinal cord problem. Though he had requested for an alternative duty, he was not provided with the same and hence, he was forced to give a resignation letter. Therefore, the resignation should only be treated as discharge from duty on medical grounds. In such circumstances, the employee would be entitled to receive pensionary benefits as per the Service Rules.

7. Per contra, the learned Additional Advocate General appearing for the respondent Transport Corporation had submitted that the employee had not challenged the order accepting resignation. The review order of the writ Court clearly pointed out that the employee is not entitled to go on voluntary retirement. In such circumstances, the employee would not be entitled to receive any pensionary benefits as per the Service Rules. He had further submitted that no grounds have been made out for reviewing the order of the Co-ordinate Bench. He had further contended that when the employee had resigned from service, he is deemed to have forfeited his entire service and would not be entitled to receive pension as per the Service Rules.



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8.The learned Additional Advocate General had relied upon a judgement of the Hon'ble Supreme Court reported in **(2016) 4 SCC 696 (Bussa Overseas and Properties Private Limited and another)** to impress upon the Court that, without challenging the order passed in the main writ petition, if a writ appeal is filed challenging the order in the review application, the same is maintainable, in view of the fact that the order in the writ petition has been modified in the review order. Hence, he prayed for dismissal of the review application.

9. We have considered the submissions made on either side and perused the material records.

(C).Discussion:

10.The petitioner has submitted his resignation on 23.08.2012 and it was accepted only on 05.07.2014. In case, if the resignation letter was obtained by force, the employee had ample time for nearly two years to recall the said request. However, the same was not done. Three years after acceptance of resignation, the petitioner has given a representation on 07.12.2017 seeking pensionary benefits without challenging the order accepting the resignation letter.

11.Without challenged the rejection of his request for alternative employment or acceptance of resignation, the employee had simply sought a mandamus for disbursement of pension. Unless the character cessation of



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employment is decided, the right of an employee to receive pension cannot be adjudicated. In case of resignation, the employee forfeits all his past services and he would not be entitled to receive pension. The review order of the writ Court points out that the employee is not eligible to go on voluntary retirement. In such circumstances, the employee has not established under what provisions of the Service Rules/Standing Orders, he is entitled to receive pension.

12.The Co-ordinate Bench of this Court while allowing the writ appeal has categorically pointed out that the petitioner has filed a mandamus without challenging any of the adverse orders. It has also pointed out that Rule 16(3) of the Service Rules applicable to the petitioner entail forfeiture of the past services due to resignation submitted by him.

13.The resignation letter was accepted by the management only after a period of two years. Though the petitioner had ample time to reconsider his resignation, he has not chosen to do so. In such circumstances, it would be futile now to contend that the employee was forced to give his resignation letter due to his ill-health. All the arguments made on the side of the review applicant are nothing but re-arguing the writ appeal which is beyond the scope of the review application.



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WEB COPY **(D).Conclusion:**

14.In view of the above said deliberations, there are no merits in the review application and the same stands dismissed. No costs.

(C.V.K.J.,)

(R.V.J.,)

30.10.2025.

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



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To

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**C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.**

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