



W.A(MD) No.1595 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23.06.2025

CORAM

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

W.A(MD) No.1595 of 2025

and

C.M.P.(MD)No.8978 of 2025

1.The Managing Director,
Tamil Nadu State Transport Corporation (MDU) Ltd.,
Bye Pass Road,
Madurai-625 016.

2.The Financial Advisor,
Tamil Nadu State Transport Corporation (MDU) Ltd.,
Bye Pass Road,
Madurai-625 016.

... Appellants / Respondents 1 & 2

Vs.

1.R.Murugesan

... 1st Respondent / Petitioner

2.The Administrator,
TNSTC Employees Pension Trust,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai-600 002.

... 2nd Respondent / 3rd Respondent



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to allow this writ appeal by setting aside the orders passed by the learned Judge in W.P.(MD)No.17155 of 2019, dated 20.10.2023.

For Appellant : Mr.S.C.Herold Singh

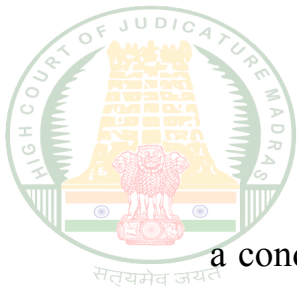
For Respondents : Mr.K.Gokul
for R1

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The management of TNSSTC is on appeal challenging the order dated 20.10.2023 passed by the learned single Judge allowing W.P. (MD)No.17155 of 2019 filed by the first respondent herein. The first respondent herein was appointed as driver in the appellant corporation in the year 1987. His services were regularised in the year 1988. Unfortunately, in October 1988, the bus driven by him met with an accident and he suffered hip injury and he was unable to work as driver thereafter. He was then appointed as conductor. Unfortunately, even as



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a conductor, he was not able to work. Therefore, based on the report of the medical board, he was discharged from service. Challenging the same, the first respondent filed W.P.(MD)No.4967 of 2008. The writ petition was allowed on 10.06.2008 in the following terms:-

“6.The learned counsel for the respondent corporation has fairly conceded that the respondent corporation is willing to give alternative employment to the petitioner within a period of two months from the date of receipt of a copy of this order. The learned counsel for the petitioner has submitted that the petitioner is willing to forgo the backwages.

7. In view of this, the impugned order passed by the respondent dated 28.03.2001 is set aside and the respondent corporation is directed to provide alternative employment to the petitioner within a period of two months from the date of receipt of a copy of this order. In view of the submission made by the learned counsel for the petitioner that the petitioner is willing to forgo the backwages, the petitioner is not entitled for backwages. However, the petitioner is entitled to have the continuity of service.

8. The Writ Petition is allowed to the extent indicated above.”

The writ petitioner was appointed as helper and he reached the age of superannuation on 31.08.2017. The management while fixing the writ petitioner's pension took into account only the period for which he actually rendered service. Thus, the writ petitioner's service was reckoned as 19 years. Challenging the same, the first respondent herein



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filed W.P.(MD)No.17155 of 2019. The learned single Judge allowed the writ petition in the following terms:-

“12. It is an admitted fact that the petitioner was unable to work as Driver and Conductor due to the injury sustained by him in an accident occurred during the course of his employment as Driver and he was discharged from service by order dated 28.03.2001, which was under challenge before this Court in W.P.No.4967 of 2008. This Court while allowing the said writ petition, by order dated 10.06.2008, directed the respondent-Corporation to provide alternative employment to the petitioner within a period of two months from the date of receipt of a copy of this order. In the said order, this Court gave categorical finding that the petitioner is entitled to have the continuity of service. Admittedly, in compliance of the said order, the petitioner was reinstated into service as Non-ITI Helper. Subsequently, he retired from service on 31.08.2017. The complaint of the petitioner is that the respondent-Corporation without counting the entire service rendered by the petitioner in the respondent-Corporation from the beginning, fixed the pension by considering his service after reinstatement as Non-ITI Helper as per the order of this Court in W.P.(MD) No.4967 of 2008.

13. In the considered opinion of this Court, the action of the respondent-Corporation in fixing the pension amount to the petitioner, after his retirement, without considering his entire service rendered in the Corporation from 1987 is unjustified. In spite of specific finding of this Court that the petitioner is entitled for the continuity of service, without following the said order, taking his 19 years service only to fix the pension is illegal, arbitrary, unjust and against to the order in W.P.



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(MD) No.4967 of 2008.

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14. For the above mentioned reasons, this Writ Petition is allowed with the following directions:

i. The respondents are directed to revise the pension of the petitioner taking into his 30 years of service rendered in the respondent Corporation from the date of his appointment as Driver in the 1st respondent-Corporation and pay the same every month hereinafter;

ii. The respondents are directed to pay differential amount of the pension and arrears with interest at the rate of 6% per annum from the date of retirement of the petitioner to till the date of the actual payment.

iii. The refixation of the pension and payment of the differential pension amount and arrears with interest shall be made within a period of four weeks from the date of receipt of a copy of this order.”

The management feels aggrieved by the aforesaid directions.

3. The prime contention of the learned standing counsel is that admittedly, the writ petitioner was discharged in the year 2001. He challenged the order of discharge only in the year 2008. The writ petition was partly allowed on 10.06.2008. After recording the writ petitioner's submission that he would not press for backwages, the continuity of service alone was ordered. The learned single Judge did not direct that the writ petitioner would be entitled to all the attendant benefits.



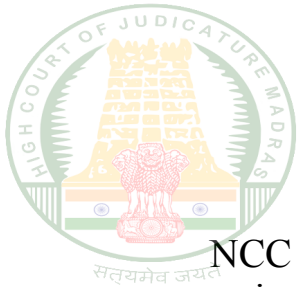
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5. We are unable to agree. As rightly noted by the learned single Judge, the writ petitioner was not terminated on any ground of misconduct. He had met with an accident. In other words, he was physically disabled from working as a driver or conductor. In fact, the beneficial legislation to recognize the rights of the physically disabled was enacted by the parliament in the year 1995 itself. In fact, the management committed an act of illegality in discharging him in the year 2001. Therefore, when the learned single Judge allowed W.P.(MD)No. 4967 of 2008 and held that the writ petitioner would be entitled to continuity of service, it would obviously mean that the said period will count for pension purpose also. The learned single Judge adopted the right approach. We do not find any ground to interfere with the same. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
23.06.2025

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Index : Yes / No
Internet : Yes / No



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NCC : Yes / No

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