



W.A. No.212 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED 11.02.2022

CORAM

**THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN**

**AND**

**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

W.A. No. 212 of 2022

&

C.M.P. No. 1593 of 2022

1. The Secretary to Government,  
Transport Department,  
Fort St. George,  
Chennai – 600 009.
  
2. The Managing Director,  
Metropolitan Transport Corporation  
(Chennai) Ltd.,  
Pallavan Illam, Anna Salai,  
Chennai – 600 002.

..Appellants

Vs.

P.G. Venugopal

..Respondent

Prayer: Writ Appeal as against the order dated 19.12.2019 passed in

W.P. No. 20089 of 2019.



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Senior Counsel for  
Mr.M. Chidambaram

For Respondent :: Mr.K. Malaikannu

## J U D G M E N T

(Judgment of the Court was delivered by **S. VAIDYANATHAN,J.**)

Questioning the order dated 19.12.2019 passed by the learned Single Judge in W.P. No. 20089 of 2019, the present writ appeal has been filed by the Transport Department.

2. The respondent herein filed the writ petition for issuance of a Writ of Mandamus directing the Transport Corporation to pay the pension regularly every month with arrears of pension from 01.04.2009 with interest @ 9% till the regular pension is paid.

3. The respondent/writ petitioner was appointed in a permanent vacancy as a Conductor in the year 1971 in the erstwhile Tamil Nadu State Transport Department. His services were regularized and thereafter, he was absorbed in the newly formed Pallavan Transport Corporation. The respondent submitted his application for voluntary retirement, which was accepted and he was relieved from service on 31.05.1995. Pursuant to coming into effect of G.O.(Ms.) No.42 Transport (RW) Department dated 27.05.2005, which was issued after the orders of the Honourable Apex



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Court, to grant pension to those employees, who were appointed in the erstwhile Tamil Nadu State Transport Department and thereafter, were deputed to Pallavan Transport Corporation Limited and completed 10 years of service as on 01.04.1982, the respondent herein requested the appellant Department to pay the pension in accordance with the above said Government Order. As his request remained unheeded, he approached the Labour Court by filing Claim Petition No. 59 of 2009, which was allowed by order dated 27.09.2013. The said order was put to challenge before this Court in W.P. No. 14330 of 2014 and the said writ petition came to be dismissed, which was further confirmed in Writ Appel and in the SLP filed before the Honourable Apex Court. However, the appellants failed to pay the computed money value of arrears of pension, which made the respondent to file an Execution Petition. Consequent thereto, pension arrears upto 31.03.2009 was paid and thereafter, seeking appropriate directions with regard to payment of regular pension as well as arrears of pension from 01.04.2009, the respondent approached this Court by filing W.P. No.20089 of 2019.

4. The learned Single Judge, while observing that there is no doubt with regard to entitlement of pension payable to the respondent/writ



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petitioner as it has been confirmed by the order of the Labour court, which was further confirmed by this Court and ultimately, by the Honourable Apex Court and that the respondent also has the requisite qualification of 10 years of service as prescribed in G.O.Ms. No. 42 Transport (RW) Department dated 27.05.2005, directed the respondent/writ petitioner to submit a fresh representation to the 2<sup>nd</sup> appellant herein with regard to his claim with supporting materials and on receipt of the same, the 2<sup>nd</sup> appellant herein was directed to process and forward the same to the 1<sup>st</sup> appellant herein, who was directed to consider and pass necessary orders with regard to payment of regular pension as well as arrears of pension with interest from 01.04.2009 till the payment of regular pension to the respondent/writ petitioner within the timeframe fixed by this Court peremptorily. Aggrieved by the said order, the present writ appeal has been preferred by the Transport Department.

5. Heard both sides and perused the materials on record.

6. The learned Single Judge was right in holding that there is no necessity to delve into the issue with regard to entitlement of pension payable to the respondent as the same has been confirmed by the order of



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the Labour Court, which has been further confirmed by this Court and also by the Honourable Apex Court. Pension, as a matter of fact, is a continuous cause of action and there is no necessity for an employee to approach the Labour Court each and every time claiming pensionary benefits. An employee, who has rendered sufficient years of service and who is more than 75 years of age, cannot be allowed to languish and made to approach the Court at every stage to get the relief. The act of the appellants in not granting arrears of pension from 01.04.2009 is arbitrary. Once the entitlement of pension of the employee is decided, the appellants are bound to pay the same. In the present case on hand, since 'pension' is a property within the meaning of Article 300A of the Constitution of India, the respondent has been deprived of his right to life guaranteed under Article 21 of the Constitution of India. Whenever an employee misappropriates money, he has been shown the doors by the employer. In this case, we are of the view that the employer has misappropriated the money of the employee by depriving him of his pension. While we confirm the order of the learned Single Judge, we direct that arrears of pension with effect from 01.04.2009 will have to be paid with interest @ 9% per annum on or before 31.03.2022 and from 1<sup>st</sup> April, 2022, regular pension will have to be paid to the respondent/writ petitioner till he survives and after his demise, in case of



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any surviving legal heir(s), the benefit of family pension will have to be extended to the eligible legal heir(s).

7. The writ appeal is dismissed with the above direction. No costs.

Connected C.M.P. is closed.

(S.V.N.J.) (M.S.Q.J.)

nv  
To

11.02.2022

1. The Secretary to Government,  
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**S. VAIDYANATHAN,J.**

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