

**(2014) 10 MAD CK 0325**

**Madras High Court**

**Case No:** Writ Appeal No. 1242 of 2014 and M.P. No. 1 of 2014

The Management of Tamil Nadu  
State Transport Corporation  
(Coimbatore) Ltd.

APPELLANT

Vs

P.G. Muthusamy

RESPONDENT

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**Date of Decision:** Oct. 15, 2014

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 18(1)

**Hon'ble Judges:** Satish K. Agnihotri, J; K.K. Sasidharan, J

**Bench:** Division Bench

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### **Judgement**

1. This writ appeal at the instance of the Management of Tamil Nadu Transport Corporation challenges the order dated 10 July 2013 in W.P. No. 27165 of 2008, whereby and whereunder the learned Single Judge quashed the impugned order and directed the appellants to pay superannuation pension to the respondent.

The facts:

2. The respondent was initially appointed as Driver and thereafter he was discharged from service on medical grounds. There was a settlement under Section 18(1) of the Industrial Disputes Act. The respondent was re-employed on the basis of the settlement with effect from 10 May 1986. The respondent on attaining the age of superannuation retired on 31 May 1999. The respondent wanted the appellants to count his earlier service for the purpose of pension. The request was rejected on the ground that his subsequent appointment was a fresh one and as such he is not entitled to count the earlier service. The said order was challenged before the writ court. The learned Single Judge having found that the respondent earlier worked on regular basis, till he was discharged on medical grounds opined that he was entitled to count the said period along with the subsequent service for fixing the pension and allowed the writ petition. Feeling aggrieved, the Transport Corporation is before

us.

Submission of the appellants:

3. The learned counsel for the appellants contended that the respondent was appointed afresh on 10 May 1986 and as such the direction given by the learned Single Judge to count the earlier service is liable to be set aside.

Discussion:

4. There is no dispute that the respondent was earlier appointed on daily wages from 10 September 1975. He was later appointed on regular basis with effect from 10 May 1986. The respondent was discharged only on account of medical grounds. It is true that he was given subsequent appointment with effect from 10 May 1986 on the basis of settlement under Section 18(1) of the Industrial Disputes Act. The appellant cannot be heard to say that the earlier service would not be counted for fixing pension notwithstanding the fact that the discharge was only on medical grounds. When it is made out that the respondent was discharged from service medically and not on any other grounds, the appellant cannot be heard to say that the earlier service would not be counted for fixing pension. The issue raised by the respondent was correctly analysed by the writ court and the impugned order was rightly set aside. We do not find any reason to take a different view in the matter.

5. In the upshot, we dismiss the intra court appeal. Consequently, the connected MP is closed. No costs.