



W.P.No.46292 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 06.07.2026

Pronounced on : 10.07.2026

CORAM :

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.46292 of 2006

Arusamy,
89-D, Theme Gounder Street,
Goundenpalayam Post,
Coimbatore – 30.

... Petitioner

vs

1. Government of Tamil Nadu,
Rep. By its Secretary,
Transport Department,
Fort St. George, Chennai – 9.
2. State Express Transport Corporation,
Rep. By its Managing Director,
Pallavaram Salai, Chennai – 2.
3. Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Rep. By its Administrator,
Pallavan Salai, Chennai – 2.
4. The Chief Accounts Officer,
State Express Transport Corporation Ltd.,
Pallavan Salai, Chennai – 2.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, to declare that the amended Rule 2 (p) (ii) of TNSTCE Pension Rules as illegal, unjust arbitrary and unreasonable and consequently direct the respondents to pay the petitioner pension as per Rule 14 (a) of the TNSTCE Pension Rules without reference to the Pension payable to the petitioner for the service rendered in the erst-while Transport Department, with all arrears and other consequential benefits, together with interest at the rate of 12% per annum, award costs.

For Petitioner : Mr.G.Vijay Priyan

For Respondents : Mr.C.P.Goutham
Government Advocate for R1.
: No Appearance for R2 to R4

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the records.

2. The case of the petitioner in brief is that he had joined the Transport Department in the year 1964 and was sent on deputation to Pallavan Transport Corporation with effect from 15.09.1975 where he worked till 19.12.1985, when he resigned from service; that in respect of the aforesaid service rendered the petitioner is not in receipt of any pension.



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3. It is further case of the petitioner that thereafter, he submitted a representation explaining the circumstances and sought for being re-employed; and that the respondents had considered the representation and reinstated him as fresh employment with effect from 01.12.1989 in the second respondent Corporation; and that from the date of being appointed in the second respondent Corporation, he had rendered service till he attaining the age of superannuation on 23.01.2001.

4. Petitioner contended that on he retiring from service, the respondents relieved him from service with effect from 28.02.2001 *vide* proceedings dated 23.02.2001 by fixing a gross pension payable in a sum of Rs.800/- and after deducting 1/3rd value of commuted portion of pension for 15 years at the rate of Rs.267/- per month, determined the net pension payable to be in a sum of Rs.533/-.

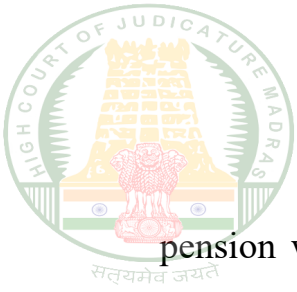
5. It is the further case of the petitioner that the aforesaid payment of pension was made pursuant to a settlement dated 13.02.1999 arrived under Section 12 (3) of the Industrial Disputes Act, 1972, by the respondents' Corporation, with Worker Union whereby they had agreed to frame an independent Pension Scheme



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for the benefit of transport employees with effect from 01.09.1998 and getting exemption from the provisions of PF Act; that pursuant to the aforesaid agreement, the respondents have framed Tamil Nadu State Transport Corporation Employees Pension Fund Rules (for short 'TNSTCE Pension Rules) which were notified *vide* G.O.Ms.No.135, dated 15.12.2000; that as per the said Rules, the employees who were in service of the Corporation as on 01.09.1998 would automatically become members of the TNSTCE Pension Fund and were made eligible for pension with effect from 01.09.1998.

6. Petitioner contended that on his retirement from service on 28.09.2001, though the respondents paid pension from March 2001, all of a sudden, the respondents stopped paying the pension from November 2001 without any notice and without assigning any reason; that he made a representation to the respondents seeking information and asking the reasons for the stoppage of pension; that the fourth respondent *vide* letter dated 10.01.2003 informed that since he was getting Pension from Tamil Nadu State Transport Department (TNSTD), his eligibility for pension was worked out once again and based on the same, it was found that he was paid an excess amount of Rs.45,575/-, and for the said reason,



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pension was stopped; that payment of monthly pension would be resumed only after the repayment of excess payment of pension paid and on production of receipt in proof of such repayment; that he immediately sent a reply dated 26.03.2003 requesting to furnish the details/break up of the alleged excess payment of Rs.45,575/- and he was also sent reminders dated 26.09.2003 and 16.02.2004 whereby he requested the respondents to pay the pension.

7. Petitioner contended that the second respondent thereafter sent a reply dated 01.07.2004 informing him that the revised pension payable would be Rs.169/- per month plus Rs.449/- towards the difference in D.A; and that the respondents reiterated once again that he would be paid the revised pension only if he repaid the excess payment, the details of which were furnished by the respondents along with the said letter.

8. It is the further case of the petitioner that he is given to understand that the respondents are seeking to apply Rule 2 (p) (ii) as amended by G.O.Ms.No.92, Transport Department dated 24.08.2001 for determining the pension payable as per Rule 14 (b) of Rules; that the said Rule has no application to the case of the



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petitioner, as his pension was sanctioned as per Rule 14 (a) of the TNSTCE Pension Rules; and that the action of the respondents in seeking to apply the amended Rule for fixation of pay, which was brought in subsequent to his retirement, is illegal.

9. Separate counter affidavits on behalf of the second and third respondents are filed.

10. The second respondent by the counter affidavit contended that the petitioner was appointed as a fresh entrant (Monthly Cadre) *vide* proceedings of the respondents without continuity of service *vide* order dated 06.12.1989; that the petitioner joined duty on 12.12.1989 and subsequently, on attaining the age of superannuation, had retired and relieved from service with effect from 28.02.2001.

11. The second respondent by the counter affidavit contended that the petitioner was a member of Provident Fund under the Employees Provident Fund Act; and that both the employee's and employer's contributions were contributed except for the period of non-employment; that while stopping pension payment,



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the petitioner was informed *vide* letter dated 10.01.2003 that employee's pension is eligible and payable as per Rule 2 (p) (ii) of TNSTCE Pension Fund Trust Rules, and the act of the second respondent is based on the Tamil Nadu State Transport Corporation's Pension Rules and thus, there is no violation of any rules nor any right of the petitioner has been taken away.

12. The second respondent by the counter affidavit contended that any excess payment is liable for adjustment and remittance by the individual and thus, sought for dismissal of the writ petition.

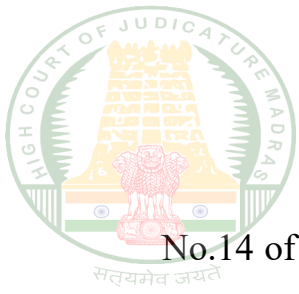
13. The third respondent by the counter affidavit contended that the New Pension Scheme was implemented to the employees of the State Transport Unions with effect from 01.09.1998 pursuant to the 12 (3) Wage Settlement reached between the Employees Trade Unions and the Management of the STUs; that the Trust Deed and Rules relating to Pension Funds were framed for the implementation of the Pension Scheme and were approved, agreed and signed by the Representatives of the Management, Representatives of the Workman and the Representatives of the Government; that the Representatives of the Workman were



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thus very much aware of the entire contents of the Rules and Regulations while signing the Trust Deed and Trust Rules; that Rule 2 (p) (ii) of the TNSTCE Pension Fund Trust Rules in respect of erstwhile TNSTD Employees who were eligible for pension for the service rendered in TNSTD, provides that the determination of their pensionable service and pension shall be as per Rule 14 (b) of TNSTCE Pension Fund Rules; that Rule 14 (b) of TNSTCE Pension Fund Rules provides that if a member who is eligible for pension under any other scheme, the pension payable under the scheme shall be calculated as prescribed; and that the pension of the petitioner is to be regulated as per the above Rules, as the petitioner is drawing pension from the Government for the service rendered in TNSTD and thus, the pension eligible as per the Rules has to be paid to him.

14. The third respondent by the counter affidavit contended that the petitioner tried to misinterpret the provisions of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules and tried to have a claim of the period spent before regular employment to be reckoned for the payment of the pension; that the petitioner tried to misinterpret the Rule 2 (p) (iii) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules though the petitioner himself accepted the method by which his pension has to be calculated in Para



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No.14 of the writ averments; that the pension of the petitioner is to be regulated as per the provisions contained in Rule 2 (p) (ii) of the Rules; that since, the petitioner had availed a loan from the employer's contribution of the Provident Fund, which forms the corpus of the pension fund and did not repay the same before retirement, this amount was recovered from the commutation and pension arrears so as to become eligible for getting pension; that the petitioner has accepted the contents of the second respondent communication regarding repayment of excess amount in Para No.18 to 21 of his writ averments and remitted the amount of Rs.45,575/- on 02.11.2012 (during the pendency of the present writ petition); and that the pension for the petitioner would be resumed; and that the writ petition may be dismissed as infructuous.

15. I have taken note of the respective contentions urged.

16. At the outset, it is to be noted that the petitioner filed the subject writ petition in the year 2006 enclosing therewith 11 documents. Except the order of retiring the petitioner, monthly pension sanctioned as per TNSTCE Pension Rules and order sanctioning commuted value of pension to the petitioner, which are in English, the remaining documents are all in vernacular language. Despite the

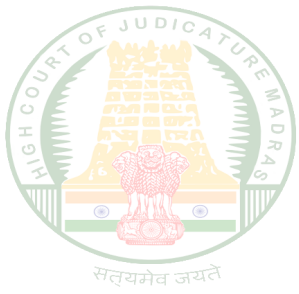


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matter is pending on the file of this Court for two decades inspite of this Court granting sufficient time to the petitioner from March 2026 onwards to file translated copies of the material papers, the learned counsel appearing on behalf of the petitioner submits that he has not been able to contact the petitioner to file the translated copies of the material papers.

17. In the absence of petitioner filing the translated copies of the material papers which are in vernacular language and since the language of the Court being English, this Court cannot look into the documents which are in vernacular language other than the documents which are in English and would base the case only on the basis of the writ petition averments and the three documents which are in English.

18. Insofar as the averments made by the petitioner in the affidavit are concerned, the same have been controverted by the respondents by filing the counter affidavit. The petitioner did not choose to file any rejoinder or additional document to substantiate the claim made in the writ petition.

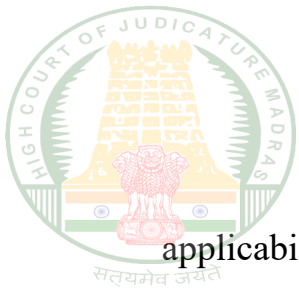


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19. Though by the proceedings dated 23.02.2001 and March 2001, the petitioner is relieved from service on attaining the age of superannuation and having been granted pension in a net sum of Rs.533/- after deducting the commutation value, the respondents by the counter affidavit having claimed of petitioner having been paid excess amount of Rs.47,575/- and till the said amount is repaid back to the respondents, the petitioner's pension payment could not be revived, and as the petitioner having remitted the said amount only on 02.11.2012, the pension payment would stand revived thereafter. No material is placed before this Court to show that despite the respondents making the aforesaid assertion by way of counter affidavit, the payment of pension has not been restored to the petitioner.

20. Insofar as the claim of the petitioner that the respondents are seeking to revise his pension by relying on Rule 14 (b) of the Pension Rules, as amended in August 2001, while he is to be governed by the provisions of Rule 14 (a) of Pension Rules, having retired from service in February 2001 prior to amendment of Rule, in the absence of any challenge by the petitioner to the Rule or its



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applicability, this Court cannot adjudicate claim of the petitioner.

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21. Further, it is to be noted that notwithstanding the amendment to Rule 2 (p) (ii) on 24.08.2001 the petitioner would be governed by Rule 14 (b) of the Pension Rules, being in receipt of pension for his erstwhile service under TNSTD.

22. If only the petitioner wanted to rely on unamended Rule 2 (p) (ii) of the Pension Fund Trust Rules, the petitioner should demonstrate that he had remitted back the service gratuity or any other benefit received, in view of the pension, together with interest. To provide pension and other benefits for TNSTD Service, if the employee is not eligible for pension for such service, the respondents should arrive at the pensionable service, and if is eligible for pension for the service rendered in TNSTD, such service would not be counted for arriving at the pensionable service under the scheme, by applying Rule 14 (b) of the Pension Rules. The amendment that has been made in August 2008 to the Pension Fund Trust Rules is only to make the said position clear by way of a clarification and charge regarding the interest rate to be applied and did not create any additional fetter on the grant of pension. The pre-amended and post-amended



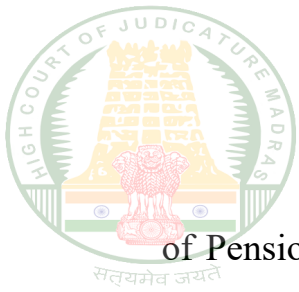
TNSTCE Rules reads as under.

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<i>Existing Rule</i>	<i>Ammended Rule</i>
2 (p) (ii) In respect of erstwhile Tamil Nadu State Transport Department employees, who were not eligible for pension for the service rendered in the State Transport Department such service will be counted taking a compassionate view for arriving pensionable service, provided they remit back the service gratuity or any benefit in lieu of pension together with interest at 12% compounded annually to provide pension and other benefits for TNSTD service. In respect of erstwhile TNSTD employees who were eligible for pension for service rendered in TNSTD, such service will not be counted for arriving pensionable service under this Scheme.	2 (p) (ii) In respect of erstwhile Tamil Nadu State Transport Department employees, who were not eligible for pension for the service rendered in the State Transport Department, such service will be counted taking a compassionate view for arriving pensionable service, provided they remit back the service gratuity or any benefit in lieu of pension together with interest compounded annually calculated at the <u>rate of interest declared for the members by the PF Trust of respective STUs for the respective years</u> to provide pension for TNSTD service. In respect of erstwhile TNSTD employees who were eligible for pension for the service rendered in TNSTD, <u>determination of their pensionable service and pension will be as per Rule 14 (b).</u>

(underlining supplied by Court to identify the amended portion)

23. Since, the petitioner did not deny the claim of the respondents of being in receipt of pension for his earlier service in TNSTD, the pension of the petitioner for his services with the second respondent would have to be determined only in terms of Rule 14 (b) of Rules, even in the absence of the amendment to the



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of Pension Fund Trust Rules. Thus, the respondents were entitled to recover the excess payment, if any.

24. The fact that the petitioner having paid back the excess amount as claimed by the respondents in a sum of Rs.45,745/- on 02.11.2012, goes to show that the petitioner having accepted the claim of the respondents and became eligible to receive pension only upon such repayment as the said amount forms part of the corpus of the pension fund from and out of which the pension is paid to the petitioner. Thus, this Court is of the view that even before the repayment of the excess amount received by him, the petitioner cannot claim grant of pension under Rule 14 (a) of the Pension Fund Rules, and such claim is liable for rejection.

25. Accordingly, this writ petition fails and dismissed. No order as to costs.

10.07.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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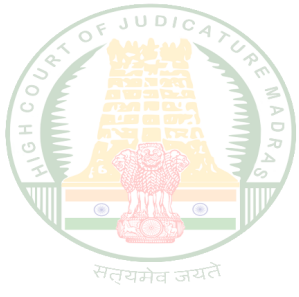
To

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T. VINOD KUMAR, J.

dh

Pre-delivery order made in
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10.07.2026