

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6204 of 2011

and

M.P.Nos.1 and 2 of 2014

R.Venkatachalam

... Petitioner

-vs-

1. The General Manager (Operation)
TN State Transport Corporation,
(Salem Division-1) Ltd.,
Salem - 636 007
2. The Asst. General Manager,
(PF and Pension Wing),
TN State Transport Corporation
(Salem) Ltd., Salem - 636007
3. The Administrator,
Tamil Nadu State Transport
Corporation Employees Pension Trust,
Administrative Office, Thiruvalluvar
House, Pallavan Salai, Chennai 600 002
(R-3 impleaded as per Order dt.17.08.2011
in M.P.No.2 of 2011)

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of writ of Certiorarified Mandamus to call for the records connected with the orders of the 2nd respondent rejecting the claim of the petitioner for pension in Lr.No.PEN/TNSTC/SALEM/2010 dated: 13.09.2010, quash the same and also direct the respondents to sanction pension and other legitimate terminal benefits to the petitioner.

For Petitioner : M/s.S.Girija

For Respondents : Mr.Paramasivadass

O R D E R

Heard Ms.S.Girija, learned counsel for the petitioner and Mr.Paramasivadass, learned counsel appearing for the respondents-Transport Corporation and with the consent of either side, the writ petition itself is taken up for final disposal.

2.The petitioner, who was working as a conductor in the first respondent-Corporation, retired from service after availing the benefit of Voluntary Retirement Scheme on 31.08.2000. The petitioner has completed 18 years and 11 months of continuous service from the date of initial appointment, excluding the period of loss of pay of one year and six months, without any break. The petitioner made a claim for grant of pension and other retiral benefits as per the Pension Rules. The petitioner placed reliance on the decision of the Hon'ble Division Bench of this Court in D.Vijayarangan vs. Secy., Sales Tax Appellate Tribunal, 2009 (1) LLN 237. By the impugned proceedings, the respondents-corporation has rejected the petitioner's request stating that a person who has retired from service after availing the benefit of Voluntary Retirement Scheme is not entitled to any retiral benefits.

3.The legal issue involved in this writ petition is no longer res integra and is covered by the decisions of the Hon'ble Division Bench of this Court, which were also confirmed by the Hon'ble Supreme Court. The Hon'ble Division Bench of this Court, in the case of Tamil Nadu State Transport Corporation Employees' Pension Trust vs. The State Transport and Transport Corporation Retired Employees Welfare Association, in W.A.Nos.2210 and 2211 of 2013 dated 15.10.2014, considering the very same issue and after taking note of the decisions of an earlier Hon'ble Division Bench and the Hon'ble Supreme Court, rejected the appeal filed by the State Transport Corporation and held that even employees, who went on Voluntary Retirement from service, in accordance with the Scheme are entitled for pensionary benefits. At this stage, it is worthwhile to refer to the operative portion of the judgment passed by the Hon'ble Division Bench of this Court, in the above referred decision, which read as under:

'12.Moreover, now the issue is not res integra and on the other hand, it is a settled one covered by a judgment of the Hon'ble Supreme Court in SLP (Civil) No.16446/2013 dated 08.05.2013 between M.D., TNSTC (Madurai) Ltd. vs. M.Natarajan & Anr. When a similar case wen before the Supreme Court, the Hon'ble Supreme Court held that such an employee who was allowed to voluntarily retire under the

then prevailing scheme on completion the age of 50 years, was entitled to the pensionary benefits and other retiral benefits as per the pension scheme. In the said case which went before the Supreme Court, the employee was allowed to retire voluntarily with effect from 01.04.2000 on completion of 20 years of service without any reference to his age and admittedly he had not attained the age of 50 years on the date of retirement. The Transport Corporation, in that case, relying on Rule 16(a)(ii) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules had contended that unless both the conditions stipulated in the said rule were fulfilled, the employees who went on voluntary retirement, would not be entitled to claim pension and retiral benefits under the new pension rules. The said contention was rejected and the Hon'ble Supreme Court, besides categorically holding that the employee was entitled to pension, saddled the transport corporation with a cost of Rs.1,00,000/-. The relevant portion of the judgment is extracted hereunder:

"In our considered view, after having accepted the prayer of respondent No.1 for voluntary retirement w.e.f. 01.04.2000, it was not open to the officers of the Corporation to deny him pension and other retiral benefits. If the concerned authority felt that on account of his age, was no occasion for that authority to pass order dated 20.03.2000. Once the application for voluntary retirement was accepted, the Corporation and its officers were estopped from questioning the entitlement of respondent No.1 to receive pensionary benefits."

13.Following the dictum made by the Hon'ble Supreme Court in Natarajan's case cited supra, yet another Division Bench of this Court, in W.A.No.1937/2013, rejected the contention of the Transport Corporation by judgment dated 28.10.2013.

14.In a similar case, which came up before the another Division Bench (one of us NPVJ was part of the Division Bench) of this Court sitting at Madurai in W.A. (MD) No.45 of 2013 judgment dated 04.06.2013, referring to the judgment of the Hon'ble Supreme Court in Natarajan's case cited supra, it was observed that denying such pensionary benefits to the persons, who went on voluntary retirement from service in accordance with the scheme with effect from

01.09.1998 was not justified. The employee therein was also similarly placed. Besides rejecting the claim of the transport corporation, the Division Bench also chose to impose a cost of Rs.5,000/- with the following observation:

'The appellant had given the first respondent much mental and financial strain. It is really a fight between a 'Goliath and a Lilliputian'. The appellant is not right in its approach. In the circumstances, that the appellant have to be saddled with a cost of Rs.5,000/- so as to dissuade it from not to indulge further in this kind of exercises.'

15. The above said discussions will make it clear that the issue raised in these writ appeals are not res integra and that it has already been covered and finally decided by the Hon'ble Apex Court in Natarajan's case and by various Division Benches of this Court. Even after such judgments/orders rejecting similar pleas wherein the concerned Transport Corporations were saddled with costs, the appellants have chosen to prefer these appeals against the order of the learned single Judge, which is in tune with the above said judgment of the Hon'ble Supreme Court and also the Division Benches of this Court. Hence we deem it appropriate to dismiss the writ appeals together with a cost of Rs.25,000/- to be paid to the sole respondent in W.A.No.2211/2013.'

4. Following the above referred decision, the writ petition is allowed and the impugned order is quashed. The respondent Corporation is directed to sanction pension and other admissible retiral benefits to the petitioner, within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected M.Ps. are closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

sra

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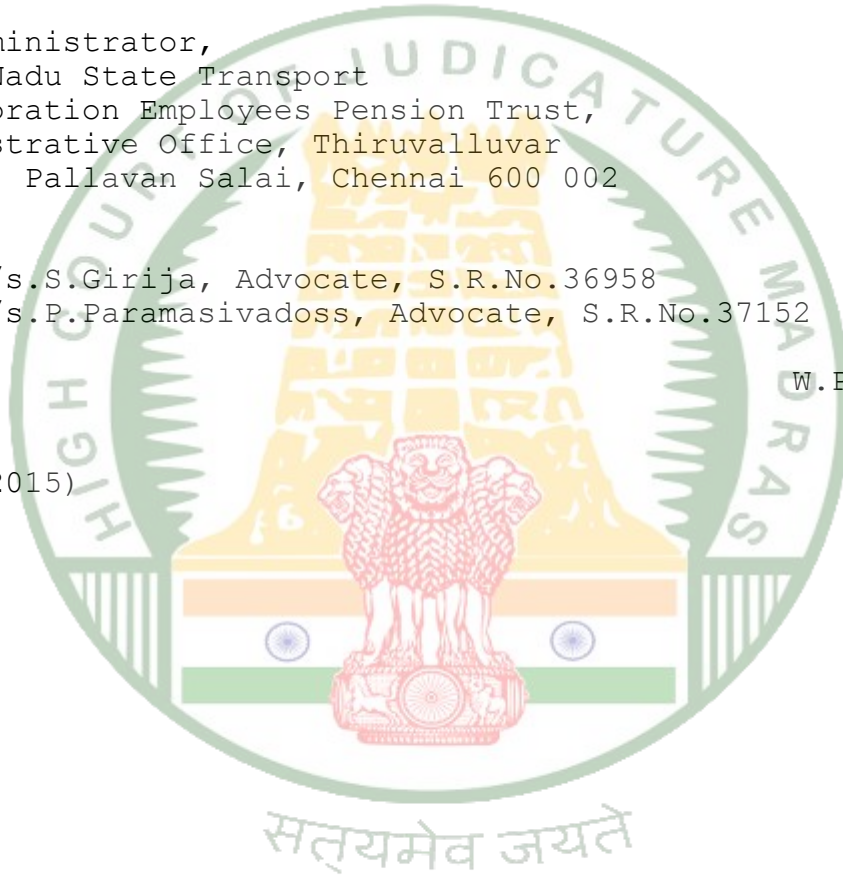
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+1cc to M/s.S.Girija, Advocate, S.R.No.36958

+1cc to M/s.P.Paramasivadoss, Advocate, S.R.No.37152

W.P.No.6204 of 2011

VD(CO)
CA(07/08/2015)



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