

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.35173 of 2015

and M.P.No.1 of 2015

Mr.S.Annamalai

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Transport Department,
Secretariat,
Chennai-600 009.

2.Metropolitan Transport Corporation Ltd.,
(Old Name Pallavan Transport Corpn. Ltd.,)
Rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002.

3.The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai-600 104.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to sanction and pay pension to the petitioner with effect from 01.01.1988 as per the G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005 and as per the provisions of the Tamil Nadu Pension Rules construing that the petitioner has completed the qualifying years of service by following the order passed in W.P(MD).3517 of 2008 dated 31.03.2010 confirmed by the Division Bench in W.A.(MD). No.381 of 2011 dated 09.04.2011 and the Hon'ble Supreme Court of India in S.L.P.(CC).No.1660 of 2012 dated 03.02.2012 and followed in issuing the G.O(3D).No.19, Transport (RW1) Department dated 25.06.2012 and in W.A.No.1752 of 2014 dated 05.08.2015 along with 18% interest.

For Petitioner : Mr.V.S.Jagadeesan
For Respondents : Mr.V.Subbiah,
Special Government Pleader for R1

Mr.P.Kannan Kumar for R2

Mrs.S.Jayakumari for R3

O R D E R

By consent this writ petition is taken up for final disposal.

2. The petitioner was appointed in the erstwhile Transport Corporation as Driver on 08.12.1971 on daily wage basis and his services were regularized on 01.12.1972 and subsequently on formation of various new Transport Corporations on 01.01.1972, he was transferred and absorbed in the newly formed Metropolitan Transport Corporation as a Driver on 01.05.1975 and was allotted Staff No.DO5941 and he was promoted as Senior Grade Driver and retired from service on attaining the age of superannuation on 30.06.1997. It is further stated by the petitioner that as per G.O.Ms.No.378, Finance (FR-II) Department dated 18.04.1975, he was entitled to receive pension/gratuity earned by him in the Government service prior to such absorption and it was followed by another Government Order in G.O.Ms.No.1028, Transport Department dated 23.09.1985 by which cut off date was fixed for absorption in various transport Corporations as 01.05.1975/15.19.1975 and the validity of this cut off date was put to challenge by various Trade Unions and it ended in favour of the employees and based on the Court Orders, the first respondent issued G.O.Ms.No.42, Transport (RW) Department dated 27.05.2015 stating that pension be paid if an employee had put in qualifying service of 10 years. It is the claim of the petitioner that he is fully entitled to the benefit of the said Government Order and even otherwise, in terms of Rule 11(1) of the Tamil Nadu Pension Rules, the petitioner has put in 9 years, 8 months and 9 days of service excluding the non-qualified period of 21 days and the fraction of 3 months should be treated as a completed one year as per Rule 43(3) of the Tamil Nadu Pension Rules and therefore, he is entitled to the benefits and in this regard, the petitioner has also submitted a representation dated 03.10.2015 to the respondents and since no orders has been passed, came forward to file this writ petition.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the first respondent,

Mr.P.Kannan Kumar, learned counsel who accepts notice on behalf of the second respondent and Mr.S.Jayakumari, learned counsel who accepts notice on behalf of the third respondent.

5. Though the petitioner has prayed for larger relief, this Court, in the light of the above facts and circumstances, directs the first respondent to consider and dispose of the petitioner's representation dated 03.10.2015 on merits and in accordance with law, after taking note of the above cited Government Orders and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

jvm

To

1.The Secretary,
The State of Tamil Nadu,
Transport Department,
Secretariat, Chennai-600 009.

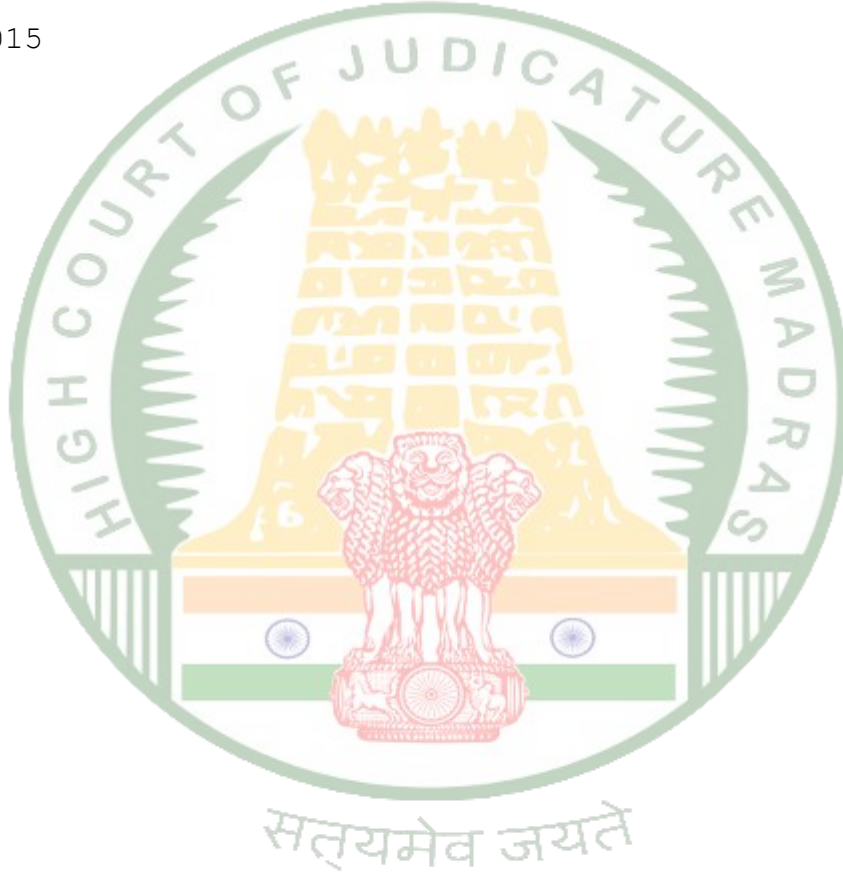
2.Managing Director,
Metropolitan Transport Corporation Ltd.,
(Old Name Pallavan Transport Corpn. Ltd.,)
Pallavan Salai, Chennai-600 002.

3.The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai-600 104

+1 cc to Mr.V.S.Jagadeesan Advocate sr.59603
+1 cc to Mr.P.Kannan Kumar, Advocate sr.59611
+1 cc to Government Pleader sr.59864

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