

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5996 of 2015

M.Joseph

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem Division-II) Ltd.,
Salem Road,
Dharmapuri-636 705

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai, Chennai-600 002.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to pay pension to the petitioner under 1998 pension scheme for the service rendered with the 1st respondent.

For Petitioner : Mr.S.T.Varadarajulu
For respondents : Mr.P.Paramasivadass

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to pay pension to the petitioner under 1998 pension scheme for the service rendered with the 1st respondent.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, as follows

2-1.The transport service to the general public was provided by the Transport Department of Government of Tamil Nadu. Pursuant to the policy decision of the State Government, Transport Corporation was formed in the year 1975. In each District, separate Transport Corporation was formed. In the Salem City, the 1st respondent-Transport Corporation is operating transport service. Under the Employees Provident

Fund and Miscellaneous Provision Act, 1954, various pension schemes were introduced. In the year 1971, Employees Family Pension Scheme, 1971 was introduced and the members contributed to the scheme were extended benefits. In the year 1995, the Employee Pension Scheme, 1995 was introduced. Thereafter, in the year 1998 a new pension scheme was introduced by the Government of Tamil Nadu to the employees of the Transport Corporation and the said scheme is called as Tamil Nadu State Transport Corporation Employees Pension Fund Scheme. The pension fund was created and a Trust was formed. The Government of Tamil Nadu, Transport Department, through G.O.Ms.No.135, dated 15.12.2000, approved the Tamil Nadu State Corporation Employees Pension Fund Rules. The employees of the 1st respondent-Corporation became members of the said Scheme automatically. It is mandatory on the part of the Trustees to pay pension as per Rules.

2-2.The petitioner joined the service of the 1st respondent-Transport Corporation as a Conductor on 06.08.1980. Due to his family problem, he opted to go on voluntary retirement on 07.01.2003. He had put in nearly 22 years of continuous service. The petitioner was relieved from service on 07.01.2003 and he was not paid pension under 1998 pension scheme, though he is entitled to get pension under the said scheme. According to the petitioner, the Hon'ble Supreme Court in SLP (Civil) No.16446 of 2013 by order dated 08.05.2013, has decided the issue to the effect that age is not criteria to grant pension if the workmen completed 20 years of service, as per Rule 16(a)(ii) of the Pension Fund Rules. In this regard, the petitioner made several representations to the respondents seeking to grant pension under 1998 Pension Scheme. The petitioner made his last representation on 22.01.2015. Since the petitioner's representations were not considered by the respondents, the petitioner has come forward with the present writ petition.

3.When the matter is taken up for consideration, the learned counsel for the petitioner produced a copy of the Government Order in G.O.Ms.No.32, Transport (E) Department, dated 23.02.2015 and submitted that the Government has issued order to grant pension to the employees, who voluntarily retired from service, though they have not fulfilled the conditions of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules. Thus, the learned counsel for the petitioner submitted that if a direction is issued to the respondents to consider the representation of the petitioner in the light of the above said GO, it would suffice.

4.Heard the learned counsel appearing for the respondents also and perused the materials available on record.

5.Considering the facts and circumstances of the case and

also the submission made on either side, this Court directs the petitioner to give a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondents are directed to consider the same in the light of the said G.O.Ms.No.32, Transport (E) Department, dated 23.02.2015, and to pass orders on merits and in accordance with law, within a period of four weeks thereafter.

With the above direction, the writ petition is disposed of.
No costs

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

[ssv]

To

1.The Managing Director,
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(Salem Division-II) Ltd.,
Salem Road,
Dharmapuri-636 705

2.The Administrator,
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Employees Pension Fund,
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