



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2016

CORAM:

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THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No. 11789 of 2011

R. Shanmugalakshmi

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Karaikudi Region,
Managiri Road,
Karaikudi 630 307,
Sivagangai District.

... Respondent

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to letter TNSTC/Pension/2827 dated 16.08.2011 and quash the same and consequently direct the respondent to make payment of pension as per the provisions contained under Rule 13 of the Tamil Nadu State Transport Corporation Pension Rules within a specified time frame that may be fixed.

For Petitioner : Mr. S. Visvalingam

For Respondents : Mr. K. Mahendran

ORDER

The petitioner was appointed as a Sweeper on 20.04.1998 on compassionate basis on the death of her husband Rajapandian. She continued in service as Sweeper and it was confirmed on 01.03.2006 as per reference No. TNSTC/ADMIN/A2/573, dated 24.02.2006. She was allowed to retire on 28.02.2011. The period of service rendered in the respondent Corporation was 9 years, 9 months and 24 days. The writ petitioner, after retirement, applied for pension. The respondent Corporation would state that eligible service for pension is minimum 10 years. Since she has served only 9 years, 9 months and 24 days, she is ineligible to receive pension and only the service gratuity will be prepared and given to her. The respondent Corporation by its order No. TNSTC/Pension/2827, dated 16.08.2011, has rejected the request made by the petitioner, dated 08.07.2011. Challenging the order of rejection, the writ petitioner is before us.



2.It is the contention of the petitioner that as per Tamil Nadu State Transport Corporation Employees Pension Fund Rules, she is entitled to pension. Rule 13(a) of VI of the Rules specifies determination of eligible service, which is extracted as follows:-

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"In the case of a "New Entrant" entering into service on or after 1.9.1998, the "actual service" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more than shall be treated as one year and the service less than six months shall be ignored."

3.Reading of this rule, clearly says that the fraction of service for six months or more shall be treated as one year and the service less than six months shall be ignored.

4.According to the petitioner, she has rendered 9 years, 9 months and 24 days of service and the respondent in the impugned order also, has stated the same period.

5.Admittedly, the writ petitioner has put in 9 years, 9 months and 24 days service, which shall be rounded off as per Section 13 of the TNSTC Employees Pension Fund Rules. Since she has completed more than 6 months, it shall be rounded off as one year. Therefore, the petitioner seeks that the impugned order has to be quashed and the respondent shall be directed to sanction pension.

6.Per contra, Mr.K.Mahendran, learned counsel for the respondent Corporation would vehemently oppose stating that as per the Rules, those who have joined after 1998 the actual service only has to be counted and they are not entitled to rounding off the fraction. He would also submit that the impugned order has been rightly passed and does not require any interference.

7.Heard both sides.

8.It is an admitted fact that the petitioner has put in 9 years, 9 months and 24 days of service as Sweeper. As per Rule 13, the fraction of service rendered shall also be rounded off nearest to the years. The service rendered more than 6 months shall be rounded off as one year and the service rendered lesser than 6 months shall be ignored.

9.Admittedly, the 9 months service is more than 6 months service and it shall be rounded off. In support of the contention, the petitioner has cited an order of this Court made in **W.P(MD) No.6387 of 2011 dated 27.11.2014 (N.Subramanian vs. Metro Transport Corporation)**. In the said order, an identical issue was dealt with and this Court, following the order passed by the Hon'ble Division Bench in **W.A(MD)No.809 of 2010 dated 16.01.2011**, has directed the respondent to count the services rendered above 6



months as one full year and further directed to sanction pensionary benefits to the petitioner. The case on hand is also an identical and the Judgment of this Court is squarely applicable to the petitioner also.

10. In such circumstances, the writ petition stands allowed and the respondent is directed to sanction the pensionary benefits to the petitioner in accordance with the Rules and disburse the same, within a period of 12 weeks from the date of receipt of a copy of this order. No order as to costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Karaikudi Region,
Managiri Road,
Karaikudi 630 307,
Sivagangai District.

+ 1 CC TO Mr.S.VISVALINGAM, ADVOCATE IN SR No. 65048

SKN

TE/GSV-PM : 22/11/2016 : 3P/3C

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