

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

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The HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.1107 of 2010

A.Jayaraman

.. Petitioner

vs.

1. The Secretary,  
Transport Department,  
Government of Tamil Nadu,  
Secretariat,  
Chennai-9.
  2. The Metropolitan Transport  
Corporation (Chennai) Limited,  
rep. By Senior Deputy Manager (Accounts),  
Anna Salai,  
Chennai - 600 002.
  3. The Managing Director,  
Tamil Nadu State Transport  
Corporation (Villupuram) Limited,  
Villupuram - 605 602.
- ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the order letter No.12181/0 na tha pi 3 / MTC.09, dated 23.11.2009 of the second respondent and quash the same and consequently, direct the first respondent to pay pension as per G.O.Ms.No.378 dated 18.04.1975.

For Petitioner

: No Appearance

For Respondents

: Mr.P.Sanjay Gandhi  
Addl. Government Pleader  
for 1<sup>st</sup> respondent

No Appearance for  
respondent Nos.2 & 3

## ORDER

The petitioner before me retired as a driver from the Tamil Nadu State Transport Corporation (Villupuram) Limited.

2. The petitioner submits that he joined Government service on 05.03.1968 as a driver in the erstwhile Transport Department of the Government of Tamil Nadu. It is the further case of the petitioner that he was thereafter transferred to the Metropolitan Transport Corporation (Chennai) Limited on 23.08.1975. The petitioner would also state that on 04.11.1975, he was transferred to the Tamil Nadu State Transport Corporation (Villupuram) Limited [Managing Director of this entity third respondent before me] from where he was permitted to retire voluntarily from service on 05.08.1996.

3. To be noted, the Metropolitan Transport Corporation (Chennai) Limited is respondent No.2 before me.

4. The primary contention of the petitioner in this writ petition is that he is entitled to pension but he has been wrongfully denied pension.

5. The petitioner has approached the second respondent for pension by sending a representation dated 24.09.2009, which is found at page No.11 of the typed set of papers.

6. Acting on the representation of the petitioner dated 24.09.2009, the second respondent disposed of the said representation holding that the petitioner is not entitled to pension. The only ground on which the second respondent has held that the petitioner is not entitled to pension is that he was not a member of the Regional Provident Fund Commission ("RPFC" for brevity). This order dated 23.11.2009 made by the second respondent has been called in question before me in this writ petition.

7. Today, when the matter is taken up for hearing, there is no representation on behalf of the petitioner. Mr.P.Sanjay Gandhi, learned Additional Government Pleader is present in Court on behalf of respondent No.1 and he argued the matter. There is also no representation on behalf of respondent Nos.2 and 3.

8. Two aspects come to light on perusal of the writ affidavit, typed set of documents and the submissions of the learned Additional Government Pleader appearing on behalf of the first respondent.

9. The first aspect which comes to light is that vide a impugned order dated 23.11.2009, the second respondent has stated that it is open to the petitioner to approach the third respondent in this regard as he ultimately retired/allowed to voluntarily retire from the third respondent on 05.08.1996.

10. The second aspect which comes to light and which has been fairly pointed out by the learned Additional Government Pleader is that the second respondent before me has forwarded the request of the petitioner dated 24.09.2009 to the third respondent vide a communication dated 1/3.10.2009 bearing reference Letter No.12181/O na tha pi 3/MTC/09. It is also seen that a copy of this letter has been marked to the petitioner.

11. In the light of the above said two aspects that emerge from perusal of the papers before me and the submissions of the learned Additional Government Pleader, I look at the prayer.

12. In the prayer, the petitioner would say that he is entitled to pension as per G.O.Ms.No.378, Finance (F.R.I) Department, dated 18.04.1975. From a bare perusal of the impugned order, it is not clear as to whether the second respondent has taken into account and considered the request of the petitioner in the light of G.O.Ms.No.378, dated 18.04.1975. However, now it has been made clear that, the matter has to be decided by the third respondent, I direct the third respondent to consider the request/representation of the petitioner dated 24.09.2009 (forwarded to him by the second respondent under cover of communication dated 1/3.10.2009 bearing reference Letter No.12181/O na tha pi 3/MTC/09) in accordance with law and in the light of G.O.Ms.No.378, dated 18.04.1975 and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

13. Post disposal of the representation of the writ petitioner dated 24.09.2009 within the above said time frame shall be communicated to the petitioner within a period of four weeks therefrom i.e., within four weeks from the date of disposal of the representation of the petitioner.

14. The writ petition, accordingly, stands disposed of. No costs. Considering the fact that the petitioner was aged 64 years at the time of filing of the writ petition in the year 2010 and should now be around 81 years old and also considering the fact that the writ petition pertains to pension of the petitioner who retired way back on 05.08.1996, I direct the

Registry to communicate this order to the petitioner, as the learned counsel appearing for the petitioner has not appeared today.

Sd/-  
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

bbr

To:

1. The Secretary,  
Transport Department,  
Government of Tamil Nadu,  
Secretariat, Chennai-9.
2. The Senior Deputy Manager (Accounts),  
Metropolitan Transport Corporation (Chennai) Limited,  
Anna Salai, Chennai - 600 002.
3. The Managing Director,  
Tamil Nadu State Transport Corporation (Villupuram) Limited,  
Villupuram - 605 602.

Copy to:

Mr.A.Jayaraman,  
K.K.G.H.S.School Quarters,  
Madhakadipattu,  
Puducherry-605 107.

+1cc to Government Pleader in sr.no.48045

सत्यमेव जयते

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NR 25/07/2017

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