

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9874 of 2013
and
M.P.Nos.1 of 2013 & 1 of 2015

State Express Transport
Corporation (Tamilnadu) Limited
rep. by General Manager
Pallavan Salai, Chennai 02.

... Petitioner

Vs.

1. The Presiding Officer
Labour Court, Chennai.
2. V. Perumal
S/o. V.R. Varadharaja Pillai
Ram Lakshman Flats
'B' Block, G2 15th Cross Street
New Colony, Chrompet
Chennai - 600 044.
3. The Commissioner and Secretary
Transport Department
Fort St. George
Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the first respondent in C.P. No.92 of 2006 dated 12.12.2012 and quash the same and pass further orders.

For Petitioner : Mrs. Kala Ramesh

For Respondents : R1- Court

Mr. P.C. Hari Kumar
for M/s. P.C. Harikumar Associates
for R2

Mr. S. Navaneethan,
Additional Government Pleader for R3

ORDER

The petitioner has filed this writ petition seeking to quash the proceedings of the first respondent in C.P. No.92 of 2006 dated 12.12.2012.

2. Learned counsel for the petitioner submitted that the 2nd respondent was appointed in the Tamilnadu State Transport Department as Maistry, was subsequently designated as Work Assistant from 01.05.1969 and transferred to Thiruvalluvar Transport Corporation Limited. His services were regularised with effect from 01.05.1977. He was promoted as Assistant Foreman (Civil) with effect from 28.07.1979, then as Junior Engineer (Civil) from 01.01.1985 and as Assistant Engineer with effect from 01.08.1992. Subsequently, he retired from service on 30.06.1997. In G.O. Ms. No. 42 Transport Department dated 24.07.1975, Government has specifically stated that the employees of the erstwhile Tamilnadu State Transport Department who have more than 10 years of net qualifying service, as on 01.04.1982 alone are entitled for pension. Hence, the 2nd respondent was settled only with Gratuity of Rs.53,613/- for the service rendered in the petitioner Corporation during the period 01.05.1977 to 30.06.1997. Therefore, the 2nd respondent filed a Claim Petition under Section 33(c)(2) of the Industrial Dispute Act for a sum of Rs.2,63,716/- towards pensionary benefits payable for the period 01.01.1988 to 31.01.2006 and for monthly pension. Although the petitioner and the 3rd respondent contested the case by filing counter, without considering the same, the Labour Court by its order dated 12.12.2012 allowed the claim petition, directing the petitioner to pay the pensionary benefits as claimed by the 2nd respondent. The claim petition was dismissed as against the 3rd respondent. Aggrieved by the said award of the Labour Court, the petitioner is before this Court for the reason that the 2nd respondent has not completed 10 years of net qualifying service as per the G.O.Ms.No.42 and therefore he is not entitled to receive any Government pension.

3. Per contra, learned counsel for the 2nd respondent submitted that the Labour Court has considered the claim petition on merits and has held that the 2nd respondent had completed more than 10 years of service from 07.03.1966 to 01.04.1982 and so he is eligible for Government pension and had directed the petitioner Corporation to pay a sum of Rs.2,63,716/-. Learned counsel further submitted that the Labour Court has observed that though it is disputed by the Transport Corporation that the claimant has not completed the net qualifying service of 10 years from 07.03.1966 to 01.04.1982, no material documents have been produced before the Labour Court to prove that the claimant is not entitled to receive the benefit of G.O.Ms.No.42 Transport Department dated

24.07.1975. Therefore, the 2nd respondent is entitled for the claim made in the Claim Petition before the 1st respondent and hence the writ petition filed by the Transport Corporation is liable to be dismissed.

4. Heard learned counsel for the petitioner, the 2nd respondent and the learned Additional Government Pleader for the 3rd respondent.

5. On perusal of the order passed by the Labour Court, it is found that the aspect whether the 2nd respondent has duly completed 10 years of qualifying service, has been considered in detail. It is the specific case of the 2nd respondent that he was appointed as Maistry on 07.03.1966 and was transferred to Thiruvalluvar Transport Corporation Limited as Works Assistant in Civil Division and regularised his services with effect from 01.05.1977. He was promoted as Assistant Foreman with effect from 28.07.1979 and as Junior Engineer from 01.01.1985 in Civil Division. He was also given promotion as Assistant Engineer with effect from 01.08.1992 and thereafter, on 30.06.1997, he retired from service. Neither the petitioner nor the 2nd respondent has adduced any oral or documentary evidence to establish their stand of completion of 10 years of qualifying service, before the Labour Court. Further, the petitioner has filed the present writ petition, without raising any ground of irregularities or perverse, in allowing the order passed by the Labour Court. In the absence of the said materials, this Court do not find any merit to interfere with the order of the Labour Court. Learned counsel for the petitioner would submit that the relief in the claim petition has been directed to be paid by the petitioner Corporation, but the pension has to be granted by the 3rd respondent.

6. Taking into consideration the said submission of the learned counsel for the petitioner, this Court would modify the order of the Labour Court in C.P.No.92 of 2006 dated 12.12.2012, to the effect that the petitioner Corporation shall forward the pension proposal of the 2nd respondent as ordered by the Labour Court, to the 3rd respondent herein, who is the competent authority to sanction the pension proposals of the 2nd respondent.

7. The writ petition is partly allowed, on the above terms. Consequently, the connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Presiding Officer
Labour Court
Chennai.
2. The Commissioner and Secretary
Transport Department
Fort St. George
Chennai - 600 009.
3. The General Manager
State Express Transport
Corporation (Tamilnadu) Limited,
Pallavan Salai, Chennai 02.

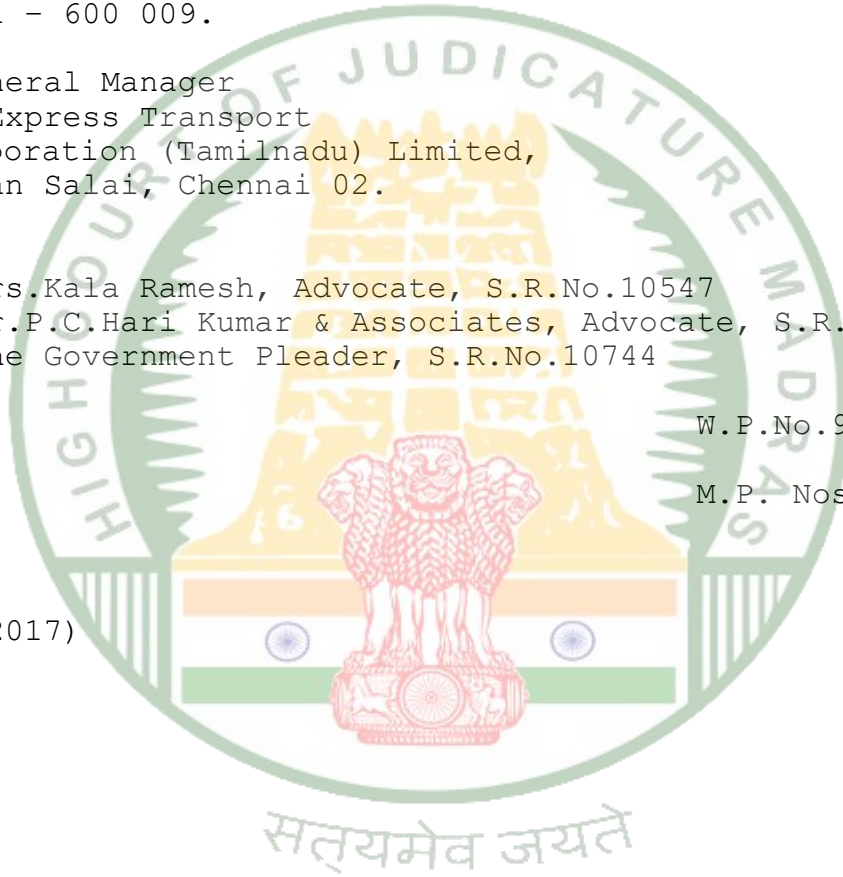
+1cc to Mrs.Kala Ramesh, Advocate, S.R.No.10547

+1cc to Mr.P.C.Hari Kumar & Associates, Advocate, S.R.No.10560

+1cc to the Government Pleader, S.R.No.10744

W.P.No.9874 of 2013
and
M.P. Nos. 1 of 2013
& 1 of 2015

GJ II(CO)
CA(03/04/2017)



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