

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

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THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.2635 of 2012

E.Vaiyapuri

... Appellant

Vs.

1. The Tamil Nadu State rep. by its Secretary
Tamil Nadu State Transport Department,
Fort St. George, Madras - 9.
 2. The Managing Director,
The Tamil Nadu State Transport Corporation Ltd.
Villupuram - 605 602.
 3. The General Manager,
The Tamil Nadu State Transport Corporation Ltd.
Villupuram - 605 602.
- ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.06.2012 passed by a learned Single Judge of this Court in WP.No.5458 of 2008 praying call for the records relating to the file of the Petitioner's person culminated in the impugned notice dated 05.05.2008 in Letter No 3086/PFS/TNSTC(VPM)/2008 from the office of the 2nd respondent and quash the same.

For Appellant : Mrs.C.R.Rukmani
For R1 to R3 : Mr.P.Paramasiva Doss

JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

2.Aggrrieved by the order of dismissal of the writ petition, the unsuccessful petitioner has come up with the present Writ Appeal.

3. For the sake of convenience, the parties are referred to as per their rank in the writ petition.

4. The facts in brief are that the petitioner was employed in a private transport Company and the route run by the company was taken over by the State and entrusted to Thanthai Periyar Transport Corporation. The service of the employees working under the said company was also absorbed except the petitioner. Hence, the petitioner filed a writ petition in WP.No.359 of 1992 seeking appointment in the Transport Corporation. The said writ petition was dismissed by order dated 17.03.1992, against which, W.A.No.523 of 1992 was filed. By judgment dated 05.07.1995, the said writ appeal was allowed, directing the Transport Corporation to consider the case of the petitioner for appointment as Conductor, pursuant to the order passed by the State Government in G.O.Ms.No.113 Transport Department, dated 21.02.1997 on merits. Following the said judgment, the petitioner was employed as casual workman in the post of Conductor on 07.06.1996. After completion of 240 days of daily wages, he was brought under regular cadre and was paid monthly wages with effect from 01.08.1997. He retired from service on 31.03.2007 on attaining the age of superannuation. Though his terminal benefits, such as, Provident Fund and Gratuity were paid to him, he was not granted pension on the ground that he had not rendered the required 10 years of service as per the provisions of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules. Hence, he filed W.P.No.5458 of 2008, which was dismissed, by the order impugned herein.

5. The learned Single Judge dismissed the writ petition, in the following lines:

"It is stated by the respondent Corporation that the petitioner's service from the date of daily wages to that of retirement worked out to 10 years 9 months and 24 days. The petitioner also was given a service certificate. But as per the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules is concerned, the petitioner's regular service comes out to only 9 years 6 months and 15 days. Therefore, the petitioner's contention that the entire service including daily wages should be counted, cannot be considered in the light of the Pension Fund Trust."

6. Questioning the legality and the correctness of the order passed by the learned Single Judge, the petitioner has preferred this writ appeal, contending that he had rendered the service of 10 years 9 months and 24 days from the date of daily wages to that of his retirement. However, the respondents refused to grant pension on the ground that the petitioner had not rendered

the eligible service of 10 years as per the Pension Rules, which is arbitrary and against the law.

7.However, when the appeal was taken up for consideration, the learned standing counsel for the respondent Transport Corporation fairly submitted that the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules was amended, as per which, the service rendered by the petitioner on daily wages will be reckoned for calculation of pensionable service.

8.In view of the submission of the learned standing counsel for the respondent Transport Corporation, we are of the view that since the petitioner has rendered more than 10 years of service from the date of daily wages to that of retirement, he is eligible to get pension, as per the amended provision of the Pension Rules. Accordingly, the writ appeal is allowed and the order of the learned Single Judge is set aside. No costs.

9.At this juncture, the learned standing counsel for the respondent Transport Corporation submitted that consequent to the retirement of the petitioner, Provident Fund Contribution and Gratuity amount were paid to him.

10.In view of the above, we direct the respondents to work out the calculation by reckoning the entire period of service rendered by the petitioner for the purpose of pensionary benefits and pay the amount to the petitioner, after adjusting the amount, if any, already paid, within a reasonable time.

s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Tamil Nadu State rep. by its Secretary
Tamil Nadu State Transport Department,
Fort St. George, Madras - 9.
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation Ltd.
Villupuram - 605 602.

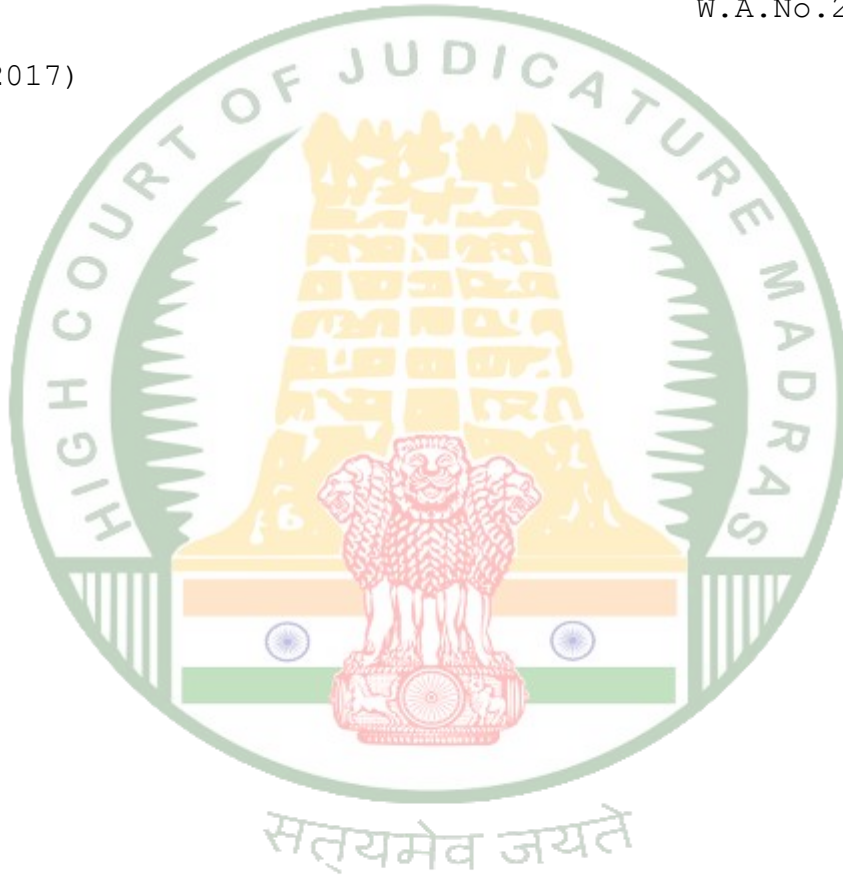
3. The General Manager,
The Tamil Nadu State Transport Corporation Ltd.
Villupuram - 605 602.

+1 CC to Mr.C.R. Rukmani, advocate sr 72953.

+1 CC to Mr.P. Paramasivadosh, Advocate sr 72740.

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SP(30/11/2017)



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