

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.13005 OF 2003

E.Nandaji Rao

...Petitioner

Vs

1. The Managing Director, Metropolitan Transport Corporation, Pallavan House, Pallavan Salai, Chennai-2.
2. The General Manager (Personal), Metropolitan Transport Corporation Division II Ltd., No.4, Anderson Street, Ayanavaram, Chennai-23.
3. The Selection Grade Assistant Manager, Pallavan Transport Corporation Employees' Provident Fund Trust, Pallavan House, Chennai-2.
4. The Selection Grade Assistant Manager, Metropolitan Transport Corporation Chennai Limited, Pension Section, K.K.Nagar Depot, Chennai-78.
5. The Financial Controller, Metropolitan Transport Corporation Limited, Terminal Benefits Cell, K.K.Nagar, Chennai-78.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the fourth respondent in Letter No.1902/Pension/K.K.Nagar/2001 dated 17.10.2011, proceeding of the third respondent in letter No.1902/ Pension/ KND/2001 dated 06.12.2001 and the impugned order of the fifth respondent in letter No.1902/MTC/Pension/KKND/2001 dated 25.3.2003, quash the same and consequently direct the respondents herein to pay monthly pension to the petitioner with effect from 01.10.2000 in the category of driver with all arrears and other attendant benefits.

For Petitioner : Mr.K.Raja
For Respondents : Mr.V.R.Kamalanathan

ORDER

The petitioner instituted this writ proceedings claiming monthly pension consequent to his voluntary retirement on 30.9.2000.

2. The controversy arose in this writ petition is to determine the qualifying service for the purpose of granting pension to the writ petitioner.

3. The learned counsel for the writ petitioner mainly contended that the petitioner has completed 20 years of service with the respondent Transport Corporation and is accordingly entitled to monthly pension.

4. The legal dispute arosed, is as to whether, the writ petitioner has actually completed 20 years of qualifying service or not.

5. In this regard, the learned counsel for the respondent Transport Corporation placed the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules. Rule 14(a) of the said Rules enumerates the determination of pensionable service. Rule 14(a) reads as under :

"The pensionable service of the member shall be determined with reference to the contributions received or are receivable on his behalf in the employees' pension fund, subject to the conditions stated in para 13. The pensionable service shall be restricted to 30 years for the purpose of calculation of pensionary benefits."

6. The learned counsel for the petitioner cited Rule 8 of the same Rules. Rule 8 is extracted as hereunder :

"The Pension Scheme is applicable to all the employees of the establishment who are on rolls as on 1.9.1998 or employed after that date and also members of the Employees Provident Fund Scheme.

In the case of outgoing employees prior to 01.9.1998, they shall be entitled to the benefits under the Employees Pension Scheme, 1995 through the Provident Fund Commissioner."

7. On a cogent reading of both the provisions, it is clear that for granting monthly pension, the determination of qualifying service is to be ascertained. The writ petitioner voluntarily retired from service under the Scheme on 30.9.2000 and his date of entry into the Provident Fund Scheme was 01.3.1980. Therefore, the gross service rendered by the writ petitioner was 20 years six months and 29 days. The non qualifying service as per the service records and as stated by the respondent Transport Corporation in counter is 3 years 6 months and 6 days. Accordingly, the net qualifying service rendered by the writ petitioner for the purpose of determining the qualifying service is 17 years and 23 days. Therefore, the writ petitioner has not completed the required qualifying service of 20 years and thus not eligible to receive pension under the Voluntary Retirement Scheme. This position is supported by the Rules stated supra.

8. At this juncture, the learned counsel for the writ petitioner submits that he will advise his client to challenge the said Rules themselves.

9. Therefore, as per the Rules in force, the writ petitioner is not entitled to pension under the Scheme, since he has not completed the net qualifying service of 20 years as per the condition prescribed.

10. Under these circumstances, the learned counsel for the petitioner offered to withdraw the writ petition with liberty to challenge the Rules in force.

11. Hence, this Court is inclined to permit the learned counsel for the writ petitioner to withdraw the writ petition. Accordingly, the writ petition is dismissed as withdrawn. Liberty is granted to challenge the Rules. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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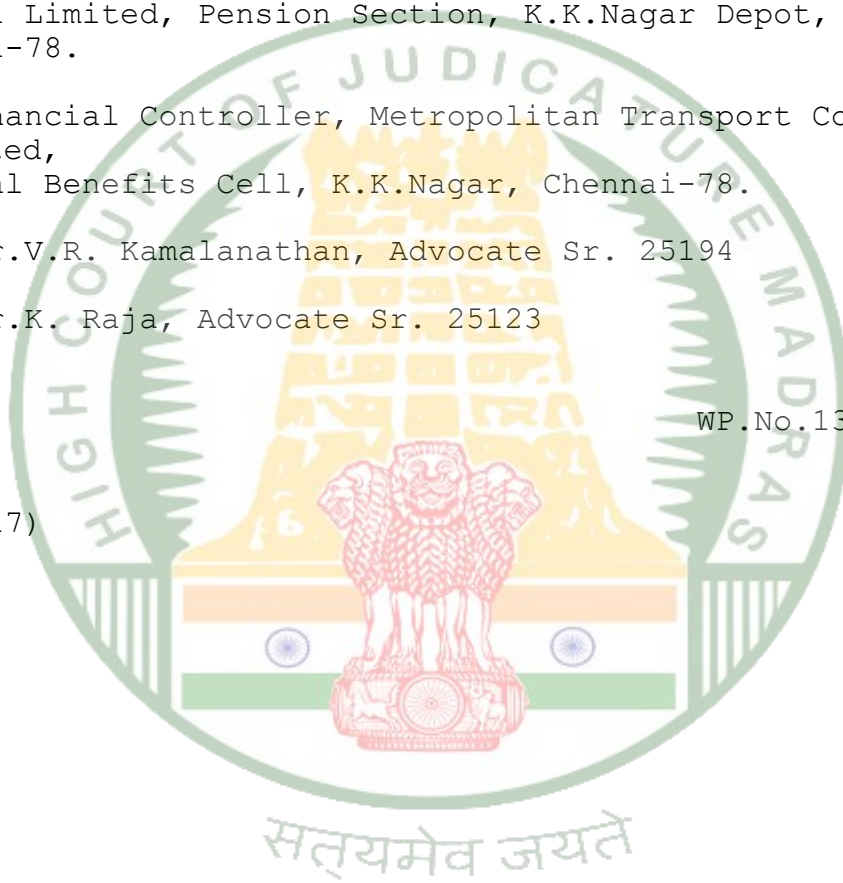
To

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Chennai Limited, Pension Section, K.K.Nagar Depot,
Chennai-78.
 5. The Financial Controller, Metropolitan Transport Corporation Limited,
Terminal Benefits Cell, K.K.Nagar, Chennai-78.
- +1cc to Mr.V.R. Kamalanathan, Advocate Sr. 25194
- +1cc to Mr.K. Raja, Advocate Sr. 25123

WP.No.13005 of 2003

SJ(CO)
VR(9/5/2017)



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