



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2017

CORAM

THE HONOURABLE MR. **JUSTICE S.S.SUNDAR**W.P. (MD) .No.5433 of 2014

WEB COPY

N.Madaswamy

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Fort St. George,
Chennai - 600 009.
 - 2.The Secretary,
Finance (Pension) Department,
Fort St. George,
Chennai - 600 009.
 - 3.The Managing Director,
Metropolitan Transport Corporation Limited,
Chennai.
- .. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent dated 10.10.2013, vide Letter No.16450/RW1/2012-5, culminating the proceedings of the third respondent vide letter No.17307/Sa.Pi (Ni.Na) Ma.Po.Ka/08, dated 07.10.2013 quash the same and consequently direct the respondents to disburse the petitioner's pensionary benefits with interest as per G.O. (Ms) No.42, Transport, dated 27.05.2005 by granting relaxation, if necessary.

For Petitioner : Mr.B.Brijesh Kishore
For Respondents 1 & 2 : Mr.N.S.Karathikeyan
Additional Government Pleader
For 3rd Respondent : Mr.K.Sathiyasingh
Standing Counsel for TNSTC

O R D E R

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the proceedings of the first respondent dated 10.10.2013, vide Letter No.16450/RW1/2012-5, which culminated in the proceedings of the third respondent vide letter No.17307/Sa.Pi(Ni.Na) Ma.Po.Ka/08, dated 07.10.2013 and to direct the respondents to disburse the petitioner's pensionary benefits with interest as per G.O. (Ms) No.42, Transport, dated 27.05.2005 by granting relaxation, if necessary.



2. Heard Mr.B.Brijesh Kishore, learned Counsel appearing for the petitioner, Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.K.Sathiya Singh, learned Standing Counsel for the third respondent.

3. Though the case of the petitioner with regard to his qualifying service of 9 years 7 months and 25 days is admitted by the respondents in their counter affidavit, the respondents have rejected the claim of the petitioner. This Court in the earlier writ petition filed by the petitioner in W.P.(MD) No.6405 of 2008 dated 29.04.2013, passed the following order:

"5. In such view of the matter, the impugned order deserves to be set aside. Accordingly, the impugned order is set aside and the writ petition is allowed and the matter is remanded to the respondents for fresh consideration and they shall take note of the petitioner's service certificate issued by the third respondent, dated 26.04.1997 from which it is seen that the petitioner has joined the erst while Transport Department, on 15.12.1971 by considering the said certificate, the respondents are directed to pass fresh orders and examine as to whether the petitioner should be granted the benefit of pension in accordance with G.O.Ms.No.42, Transport Department, dated 27.05.2005. The petitioner is also directed to furnish a copy of the said certificate dated 26.04.1997 along with a copy of this order to the respondents for fresh consideration. The respondents shall pass appropriate orders as stated above within a period of eight weeks from the date of receipt of a copy of this order. No costs."

Once again, the respondents have rejected the petitioner's claim by the impugned proceedings. Hence, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner relied upon the judgment of this Court in the case of **R. Shamugalakshmi v. The General Manager, Tamil Nadu State Transport Corporation Limited, Karaikudi Region dated 02.11.2016**. In this judgment, the learned Single Judge of this Court has allowed a similar writ petition after considering Rule 13 of the TNSTC Employees Pension Fund Rules. The operative of the said judgment is extracted below:

"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

same 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 of 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."

5. Since the respondents have admitted that the petitioner has completed 9 years 7 months and 25 days of service, the petitioner is entitled to pension as he is deemed to be in service for 10 years in view of Rule 13 of the TNSTC Employees Pension Fund Rules. Hence, this Writ Petition is allowed and the impugned proceedings of the first respondent dated 10.10.2013, vide Letter No.16450/RW1/2012-5, and the proceedings of the third respondent vide letter No.17307/Sa.Pi(Ni.Na) Ma.Po.Ka/08, dated 07.10.2013 are set aside. The respondents are directed to sanction the pensionary benefits payable 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 costs.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,

Transport Department, State of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2. The Secretary,

Finance (Pension) Department,
Fort St. George, Chennai - 600 009.

3. The Managing Director,

Metropolitan Transport Corporation Limited, Chennai.

+1 CC to M/s.B.BRIJESH KISHOR, Advocate, SR No. 62203.

+1 CC to M/s.K.SATHIYA SINGH, Advocate, SR No. 62259.

SJ

PSM/MR-KKR/SAR1/06.07.2017/3P/6C