



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)Nos.197 and 223 of 2017

W.P(MD)No.197 of 2017

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1. P.Mohandoss
2. D.Santhanakrishnan
3. Ramamoorthy
4. D.Annasamy
5. V.Prema
6. C.Vairavan
7. B.Jeyaseelan
8. L.Sakthivel
9. A.Solaiyan
- 10.A.Hussain
- 11.K.Yaseen
- 12.VD.Sikkander Ali
- 13.U.Palaniyappan
- 14.R.Kanagasabapathy
- 15.R.Nageswaran
- 16.M.Gunasekaran
- 17.M.Jyothi
- 18.V.Shanmugasundaram
19. M.Boominathan

... Petitioners

vs.

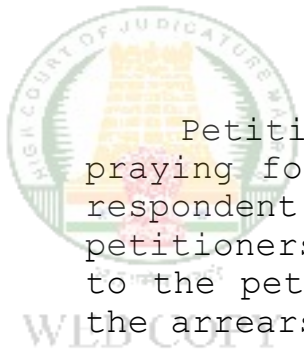
1) The Board of Directors/ The Tribunal
Tamil Nadu Civil Service Corporation,
Head Office, Kilpauk,
Chennai-10.

2) The Government of Tamilnadu
Rep. by its Secretary to Government,
Co-operative, Food & Consumer Protection Department,
Fort St. George,
Chennai-09.

3) The Government of Tamilnadu
Rep. by its Secretary to Government,
Finance Department,
Fort St. George,
Chennai-09.

4) The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Kilapuk,

... Respondents



Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1st respondent Tribunal to consider and pass orders on the petitioners' Application dated 28.11.2016 to sanction the pension to the petitioners on par with the Government Servants and to pay the arrears from the date of their retirement.

For Petitioners : Mr.V.Kannan,
For Respondents : Mr.D.Mayaraja for R1 & R4.
Mr.A.K.Baskarapandian for R2 & R3

W.P(MD)No.223 of 2017

- 1.M.Raphael
- 2.K.Gopal
- 3.P.Manthira Moorthy
- 4.S.Raman
- 5.M.Bose
- 6.K.Selvaraj
- 7.M.T.Nagarajan
- 8.S.Kalimuthu
- 9.A.Desingu
- 10.M.Kader Mohideen
- 11.S.Irudayaraj
- 12.M.Sakthiganesan
- 13.M.Thajudeen
- 14.R.Ramasundaramoorthy
- 15.R.Pitchai
- 16.A.Sahubar Ali
- 17.N.Kanagaraj
- 18.N.Balu
- 19.V.Karuppasamy
- 20.T.Christopher
- 21.S.Haja Shahabudeen
- 22.P.Ananthakrishnan
- 23.K.Thomaiyarammal
- 24.K.Rangarajan
- 25.A.Alagarsamy
- 26.S.Malaichamy
- 27.A.Sakthivel
- 28.S.Krishnamoorthy
- 29.G.Sivaraman
- 30N.Govindaraj
- 31.P.Mari

... Petitioners

vs.

1) The Board of Directors/ The Tribunal
Tamil Nadu Civil Service Corporation,
Revenue Office, Kilpauk,
Chennai-10.



2) The Government of Tamilnadu
Rep. by its Secretary to Government,
Co-operative, Food & Consumer Protection Department,
Fort St. George,
Chennai-09.

3) The Government of Tamilnadu
Rep. by its Secretary to Government,
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4) The Managing Director,
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For Petitioners : Mr.V.Kannan,

For Respondents : Mr.D.Mayaraja for R1 & R4.

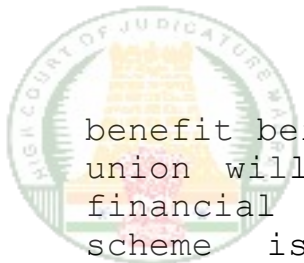
Mr.A.K.Baskarapandian for R2 & R3.

COMMON ORDER

The petitioners are retired employees of the Tamil Nadu Civil Supplies Corporation and they are 'workmen' within the definition of Section 2(s) of the Industrial Disputes Act, 1947 and the respondent/Tamil Nadu Civil Supplies Corporation is an 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. The petitioners would submit that after the orders of this Court dated 04.08.2011 in W.P.No.20390 of 2009, the employees have approached the Tribunal as directed in paragraph 15 of the order and the 1st respondent/Tribunal has not considered the applications of the petitioners. Hence, these writ petitions.

2.It is relevant to extract below paragraph 15 of the order dated 04.08.2011 made in W.P.No.20390 of 2009:-

'Further, it has been stated that the petitioner/Union is a non-representative union, representing a very miniscule minority of the employees of the second respondent/Corporation. Even if any industrial dispute is raised by the petitioner/Union with reference to the demand for pension, they will have to establish their representative capacity before the appropriate Tribunal and only then the Tribunal can examine the case for any pensionary



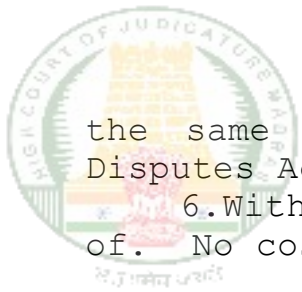
benefit being extended to the workmen. Even in such a dispute the union will have to establish that the Corporation has got the financial stability to introduce a pension scheme and that such a scheme is available in the same region and in similar industries.''

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3.Paragraph 15 of the order dated 04.08.2011 made in W.P.No.20390 of 2009 makes it very clear that if the employees are entitled to any benefits based on the services rendered under the Corporation, they have to raise an industrial dispute before the appropriate forum namely, the Labour Department and in case of a reference, as the issue falls under the Third Schedule to Industrial Disputes Act, 1947, the Tribunal has got jurisdiction to entertain the matter. If there is a reference, the employees have got to establish the representative capacity before the Tribunal and the matter has got to be adjudicated, if a reference is made by the appropriate State Government. When this Court has directed the petitioners/Union to approach the appropriate Tribunal, under the wrong pretext, they have approached the Tribunal said to have been constituted internally in the department and that is not the spirit of the order dated 04.08.2011.

4.The members of the Union have filed these writ petitions in individual capacity. Paragraph 15 of the order dated 04.08.2011 made in W.P.No.20390 of 2009, is very clear that if any industrial dispute is raised by the petitioner/union with reference to the demand for pension, they will have to establish the representative capacity before the appropriate Tribunal which means, the Tribunal constituted under the Industrial Disputes Act, 1947 and not the Board of Directors/Tribunal said to have been constituted under the respondent Corporation.

5.Hence, I find no merit in these writ petitions. If the applications of the petitioners are directed to be considered by the 1st respondent/Tribunal, it would not only run counter to the spirit of the Industrial Disputes Act, 1947, but also to the spirit of the order extracted supra. The Board of Directors/Tribunal constituted under the Tamil Nadu Civil Service Corporation, Chennai, is not a quasi-judicial authority like the Industrial Tribunal constituted under the Industrial Disputes Act, 1947. Hence, there is no need to direct the 1st respondent/Tribunal to dispose of the petitioners' applications. It is needless to mention that if the petitioners are interested in pursuing the dispute through the Union, they can raise an industrial dispute before the appropriate authority constituted under the Industrial Disputes Act, 1947 and in case of a reference, if the representative capacity is questioned by the respondent Corporation, it is open to the petitioners to establish



the same before the Tribunal constituted under the Industrial Disputes Act, 1947.

6. With the above direction, these Writ Petitions are disposed of. No costs.

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Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1) The Board of Directors/ The Tribunal
Tamil Nadu Civil Service Corporation,
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2) The Secretary to Government,
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Co-operative, Food & Consumer Protection Department,
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Government of Tamilnadu
Finance Department,
Fort St. George,
Chennai-09.

4) The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Kilapuk,
Chennai-09.

+2 cc to Mr. V.KANNAN , Advocate, Sr.No:1419&1420
+2 cc to Mr.D.MAYARAJAN, Advocate, Sr.No:1168&1167
+2cc to M/S Special Government Pleader, Sr No.1510&1508

nbi
MAS/MSK-TTN:20.01.2017:5P/10C

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