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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2018

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16632 of 2008

S.Mohandoss

... Petitioner

Vs.

1.The Secretary,
Government of Tamilnadu,
Transort Department,
Fort St,George, Chennai 600 009.

2.The Administrator,
Tamilnadu State Transport Corporation,
E.P.F. Trust, Pallavan Salai,
Chennai - 600 002.

3.The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram Division, Villupuram 605 602.

.. Respondents

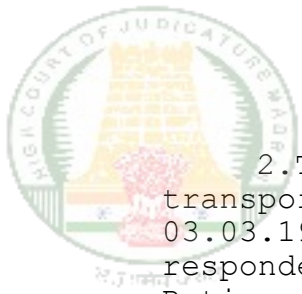
This Writ Petition filed has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in Letter dated 04.03.2006 bearing reference No.1972/P.F.5/TNSC(V)/2006 and to quash his order and consequently to direct the first respondent to consider the representation dated 09.02.2006 of the petitioner for the grant of pension to the petitioner.

For petitioner : Mr.R.Rajesh

For Respondents : Mr.Antony Arockiya Raj

O R D E R

The writ petition has been filed to call for the records of the 3rd respondent in Letter dated 04.03.2006 bearing reference No.1972/P.F.5/TNSC(V)/2006 and to quash his order and consequently to direct the first respondent to consider the representation dated 09.02.2006 of the petitioner for the grant of pension.



2.The petitioner was working as Junior Assistant with the transport corporation under the 2nd and 3rd respondents. On 03.03.1999 the petitioner made a representation to the respondents to relive him from service under the Voluntary Retirement Scheme (VRS). By an order dated 11.05.1999, the petitioner was permitted to retire from his service on 13.05.1999.

3.As on that date, the petitioner was aged about 49 years and the petitioner had put in 21 ½ years of service with the respondents' corporation. At the time when the petitioner retired from service there was no pension scheme announced by the Government of Tamilnadu. However, by G.O.Ms No.135 (Transport Department) dated 15.12.2000 pension scheme was announced by the Government of Tamilnadu with restrospective from 01.09.1998. Under the scheme, the requirement was that a person should have put minimum 20 years of service or should be aged 50 years or above on the date of retirement.

4.The learned counsel for the petitioner submitted that on the date when the petitioner retired from service there was no pension scheme and therefore he did not have the benefit of the pension scheme to take a considered decision as to whether to opt for Voluntary Retirement Service (VRS) and for go the pension or not. The learned counsel for the petitioner further submitted that the denial of pension to the petitioner merely because he had not crossed the age of 50 as per said Government Order is the arbitrary and discriminatory as the petitioner has othwise completed 20 years of service required under the scheme.

5.The fact that the Government Order is made applicable to person who have completed 20 years and retired after 01.09.1998 shows that he was otherwise qualified to receive the pension but he being aged 49 years on the date of retirement. The petitioner therefore prays for relaxation of age criteria for grant of pension.

6.In this connection, this Court has already passed an order in W.P.No.25451 of 2003 dated 20.06.2013 between P.Giri Vs. MDTNTC, Villupuram and another. In paragraph 14 the Court has held as under:

"14.While introducing Voluntary Retirement Pension, the Government did not think it fit to make it prospective. As a welfare measure, the Government thought it fit to have this provision with restrospective effect from 01.09.1998. When that be so, it cannot be sai that there can be a



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classification or differentiation between the employees who had gone on voluntary retirement on completing 20 years of qualifying service and 50 years of age and other who had also gone on voluntary retirement on completing 20 years of qualifying service but, without attaining 50 years of age."

7.The Court had allowed the relief sought for by the petitioner therein under an identical circumstance.

8.A Division Bench of this Court vide its order dated 15.10.2014 in W.A.Nos.2210 and 2211 of 2013 dismissed the appeal preferred by the Tamil Nadu State Transport Corporation employees' Pension Trust and granted pension service to the persons like the petitioner.

9.In view of the order passed by this Court in the above cases, this Writ Petition deserves to be allowed on similar lines. The respondents shall therefore pay the pension and arrears of pension together with the interest at 6% to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Secretary,
Government of Tamilnadu,
Transort Department,
Fort St,George, Chennai 600 009.

+lcc to Mr.Balasubramanian, Advocate, S.R.No.58145.

+lcc to Mr.Anotny Arockiaraja, Advocate, S.R.No.58617.

W.P.No. 16632 of 2008

rrs 18/09/2018