

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.2461 of 2004

A.Kaliappan ... Petitioner

Vs.

1.Government of Tamil Nadu
Rep by its Secretary
Transport Department, Fort St. George
Chennai - 9.

2.Tamil Nadu Transport Corporation
Employees' Pension Fund Trust
Rep by its Chairman
Pallavan Salai, Chennai - 2.

3.The Administrator
Tamil Nadu Transport Corporation
Employees' Pension Fund Trust
Rep by its Chairman
Pallavan Salai, Chennai - 2.

4.Tamil Nadu State Transport Corporation
(Kumbakonam Division - I) Ltd.
Kumbakonam.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that Rule 16(a) (ii) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules excluding the Employees who retire on Voluntary Retirement Scheme with 15 years of service and completed 50 years of age for pension as illegal, arbitrary, discriminatory and violative of Article 14 of the Constitution and consequently direct the respondents to pay the petitioner pension with effect from 1.10.2000 with interest at the rate of 18% per annum and award costs.

For Petitioner : Mr.V.Ajay Khose

For Respondents : Mr.D.Venkatachalam

O R D E R

The Petitioner was working as a Driver in the Fourth Respondent/ Corporation and had voluntarily retired from service on 30.09.2000. He has filed this Writ Petition for declaration that Rule 16(a) (ii) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules which excludes the employees who retire on Voluntary Retirement Scheme with 15 years of service and completed 50 years of age for pension as illegal, arbitrary, discriminatory and violative of Article 14 of the Constitution and seeks consequential direction to the Respondents to pay pension to the Petitioner with effect from 01.10.2000 with interest at the rate of 18% per annum and award costs.

2.It is accepted by both sides that the matter has already been decided as the relief sought by the Petitioner has been the subject matter of the litigation between the Transport Corporation and its employees in a number of cases, and the Division Bench of this Court by order dated 15.10.2014 in W.A. Nos. 2210 of 2013 and 2211 of 2013, Tamil Nadu State Transport Corporation Employees' Pension Trust Vs. State Transport and Transport Corporation, Retired Employees Welfare Association [2015-I-LLJ-336 (Mad)] has held in paragraph 9 as follows:-

"9.In this regard, we accept the contention of the learned counsel for the respondents that it is not necessary for the respondents to have challenged the vires of the said clause and on the other hand, they can very well contend that the said clause in its application to those who retired voluntarily on or after 01.09.1998 and before 15.12.2000, the date from which the pension shall be interpreted in such a way that it does not take away the right already accrued on the basis of the acceptance of their request for voluntary retirement as per the then prevailing scheme, on the ground that the pension rule does not provide any specific clause for the redressal of the grievance of the persons who might have retired voluntarily prior to 15.12.2000 but on or after 01.09.1998 and that hence by way of a purposive interpretation, this court has to apply clause 16 (a)(ii) prospectively. Even otherwise as rightly contended by the learned counsel for the contesting respondents, once the Transport Corporation has allowed an employee to voluntarily retire when he sought permission to go on voluntary retirement prevailing at that

point of time, thereafter it cannot go back from its commitment and contend that such employee shall not be entitled to the retiral benefits including pension."

3. Since the Petitioner is similarly placed person entitled to the same benefits, the learned counsel appearing for the Respondents has filed a memo stating that the total arrears of pension from the date of retirement of the petitioner, i.e., from 30.09.2000 to June 2016 comes to a sum of Rs.6,31,499/- and the Pension Trust has decided to pay the same in three equal installments and the first installment of Rs.2,10,500/- has already been paid on 23.07.2018, and that the second and third installments would be paid in the third week of August and third week of September 2018 respectively. The said undertaking is placed on record.

4. It is further submitted that in pursuance of the G.O.(Ms.) No.32 Transport (E) Department dated 23.02.2015, issued in compliance of the aforesaid order passed by this Court, pension is being paid to the Petitioner from the month of July 2016 onwards.

5. It is agreed by both counsel that if there is any dispute in calculating the amount payable, the same shall be amicably resolved through negotiation at the first instance, and in the event of any deadlock, the Petitioner shall be entitled to pursue his remedies available under law.

6. The Writ Petition is disposed of on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

maya/vjt
To

1. Government of Tamil Nadu
Rep by its Secretary
Transport Department, Fort St. George
Chennai - 9.

2. Tamil Nadu Transport Corporation
Employees' Pension Fund Trust
Rep by its Chairman
Pallavan Salai, Chennai - 2.

3.The Administrator

Tamil Nadu Transport Corporation
Employees' Pension Fund Trust
Rep by its Chairman
Pallavan Salai, Chennai - 2.

4.Tamil Nadu State Transport Corporation
(Kumbakonam Division - I) Ltd.
Kumbakonam.

+1 CC TO Mr.V.Ajay Khose Advocate SR.NO. 49891

+1 C.C. to Mr.D.Venkatachalam Advocate SR.NO. 50567

+1 CC TO GOVERNMENT PLEADERS SR.NO. 50372

W.P.No.2461 of 2004

EV(cO)
ASK(06/09/2018)



WEB COPY