



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.03.2018

Pronounced on : 11.07.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22653 of 2017

M.Nagaraj

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep.by its Special Commissioner
and Secretary to Government,
Transport Department, Fort St.George,
Chennai - 600 009.
- 2.The Government of Tamil Nadu
Rep.by its Secretary to Government,
Finance Department, Fort St.George,
Chennai - 600 009.
- 3.The Director of Treasuries and Accounts,
Panagal Building, Jennis Road, Saidapet,
Chennai - 600 015.
- 4.The Director of Pension, Pension Pay Office,
No.807, V Floor, Anna Salai,
Chennai - 600 008.
- 5.The Managing Director,
State Express Transport Corporation,
Tamil Nadu Limited,
Thiruvallur House, No.2, Pallavan Salai,
Chennai - 600 002.
- 6.The Managing Director,
Thiruvalluvar Transport Corporation,
Thiruvalluvar House, No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the fifth respondent bearing letter No.70304/C4/G & TC/06 dated 30.12.2011 and 30.07.2012 and to quash the same and directing the respondents to fix and pay pension with arrears under the liberalized Tamil Nadu Pension Rule to the petitioner.



For Petitioner
For Respondents

: Mr.V.R.G.Mohan
: Mrs.S.Srimathy,
Special Government Pleader
for R1 to R4
Mr.K.Sathiyasingh R5 & R6

WEB COPY

ORDER

Heard the learned counsel on either side.

2.The petitioner joined the Transport Department of the Government of Tamil Nadu on 11.01.1968. He retired from service on 31.08.1998. At the time of retirement, he was in State Express Transport Corporation, Tamil Nadu Limited. The case of the petitioner is that he should be given pension. This request was denied on the ground that the benefits payable to him were quantified in a lump sum and the same was paid under the O.S.S.R scheme. This stand of the management is assailed in this writ petition.

3.The learned counsel for the petitioner submits that the Government had issued G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2006. Clause 5(a) of the said G.O is applicable to the case on hand. It reads as under :

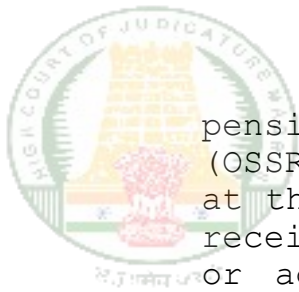
a)The erstwhile Tamil Nadu State Transport Department employees who were absorbed in Tamil Nadu State Transport Corporations and retired before 01.01.1988 or after 01.01.1988 but before 01.09.1998 be paid pension if they had put in the qualifying services of 10 years as on 01.04.1982. Period of Daily paid services, leave on loss of pay and suspension treated as specific punishment should be excluded while arriving the net qualifying service.

4.The learned counsel for the petitioner also submitted that the issue on hand is no longer res integra. A learned Judge of this Court by order dated 04.08.2010 in WP(MD)No.3838 of 2008 and etc., batch had held that even though such lump sum has been paid, the same shall be returned with interest at the rate of 12% p.a, by the employee. The learned Judge had followed an earlier order dated 08.10.2009 in WP(MD)No.1181 of 2009.

5.The case on hand is absolutely similar. The learned counsel appearing for the petitioner drew the attention of this Court to the order passed by the Hon'ble Supreme Court on 07.05.2014 in Special Leave to Appeal (Civil) No.27285 of 2011. It reads as under :

"We see no reason to interfere with the order impugned. The special leave petition is accordingly dismissed.

2.We however direct that any lump sum amount received by the respondent-employee under the non-



pensionable scheme, Operation Subordinate Service Rules (OSSR), shall be refunded by the respondent with interest at the rate of 8% per annum, calculated from the date of receipt of such payment upto the date of actual payment or adjusted by the petitioner from out of the pension dues payable to the respondent in terms of the judgment of the High Court. The pension dues after such refund/adjustment shall be released in favour of the respondent expeditiously but not later than three months from today."

6.Thus, following the earlier orders and that of the Hon'ble Supreme Court, this Court directs that any lump sum amount received by the petitioner under Non Pensionable Scheme (OSSR), shall be refunded with interest at the rate of 8% per annum calculated from the date of receipt of such payment up to the date of actual repayment or adjusted by the petitioner from out of the pension dues payable. The respondents are also directed to provide necessary pensionary benefits to the petitioner under the liberalized pension rules. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7.This writ petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Special Commissioner and Secretary to Government,
Transport Department, Fort St.George, Chennai - 600 009.
- 2.The Secretary to Government,
Finance Department, Fort St.George, Chennai - 600 009.
- 3.The Director of Treasuries and Accounts,
Panagal Building, Jennis Road, Saidapet,
Chennai - 600 015.
- 4.The Director of Pension, Pension Pay Office,
No.807, V Floor, Anna Salai, Chennai - 600 008.

+1cc to M/S.V.R.G.Mohan, Advocate SR.No. 72922
+1cc to Special Government Pleader, SR.No. 72525
+1cc to M/S.K.Sathiyasingh, Advocate SR.No. 72620

W.P(MD)No.22653 of 2017
11.07.2018

s km