



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.03.2018

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP(MD).Nos.16972 & 16973 of 2013

V.Krishnan Nair .. Petitioner in W.P(MD).No.16972 of 2013
C.Chinnian .. Petitioner in W.P(MD).No.16973 of 2013

Vs.

1.The Government of Tamilnadu,
Rep. by its Special Commissioner-cum-Secretary,
Transport Department, Fort St.George, Chennai-9.

2.Director of Pension,
Pension Pay Office,
No.807, V-Floor, Anna Salai, Saidapet,
Chennai.

3.The Director of Treasuries and Accounts,
Panagal Building, Jennis Road,
Saidapet, Chennai.

4.The Managing Director,
Tamilnadu State Transport Corporation (Tirunelveli),
Tirunelveli.

5.The General Manager,
Tamilnadu State Transport Corporation (Tirunelveli),
Nagercoil Division, Nesamony Nagar,
Ranithottam, Nagercoil-629 001.
Kanyakumari District. .. Respondents in both W.Ps

Prayer: Petition filed under Article 226 of Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the fifth respondent's proceedings in letter No.1701/A4/TNSTC (Tvl)/Nagar/2013, 1701/A4/TNSTC(Tvl)/Nagar/2003 dated 20.06.2013, 25.06.2013 respectively and quash the same and consequently direct the respondents herein to disburse the Government Pensionary benefits to the petitioners with effect from 31.03.1982 with arrears and interest.

For Petitioner : Mr.K.Vamanan
For Respondents : Ms.VPM.Vaishnavi (for R1 to R3)
Government Advocate
Mr.K.Sathiyasingh (for R4 & R5)
(in both writ petitions)

ORDER

The relief sought for in these writ petitions is to disburse the Government Pensionary Benefits to the writ petitioners with effect from 31.03.1982 with arrears as per the provision of the Tamilnadu Pensionary Rules, 1978.

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2. Admittedly, the writ petitioners were serving as employees in the erstwhile Tamilnadu State Transport Department. The petitioners claim pension under the Tamilnadu Pensionary Rules, 1978 on the ground that the short fall period for qualifying service ought to have been rounded by the respondents.

3. The learned counsel appearing on behalf of the writ petitioners states that under the Provision of Tamilnadu Pensionary Rules short fall period should be rounded of as a full year and accordingly, the pension benefits ought to have been granted.

4. The fact remains that the writ petitioner in W.P(MD).No.16972 of 2013 had served nine years eight months six and half days and the writ petitioner in W.P(MD).No.16973 of 2013 had served nine years eight months and five days respectively. The Rules 43 (3) of the Tamilnadu Pensionary Rules reads as under:-

"43(3) In calculating the length of qualifying service, fraction of a year equal to (three months) and above shall be treated as completed one half year and reckoned as qualifying service."

5. Thus, the Rule is unambiguous that the fraction of year equal to three months and above shall be treated as completed as one half years.

6. Under these circumstances, it is left open to the writ petitioners to approach the Government for the purpose of relaxation and it is for the Government to exercise its power based on the facts and circumstances. However, the Court cannot deviate the Rules in force. As per the Rule, if the fraction of year is equal to three months, definitely the same can be rounded of. In view of the fact that the fraction falls beyond the period of three months, the case of the writ petitioners cannot be considered for grant of pension and pensionary benefits under the Tamilnadu Pension Rules, 1978.

7. In view of the provision stipulated under the Tamilnadu Pensionary Rules, 1978, this Court is not inclined to consider the case of the petitioners for grant of pension under the said Rule. Thus, no further adjudication is required in this writ petition. Accordingly, the writ petition stands dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1.The Special Commissioner-cum-Secretary,
Government of Tamilnadu,
Transport Department,
Fort St.George,
Chennai-9.

2.Director of Pension,
Pension Pay Officer,
No.807, V-Floor,
Anna Salai,
Saidapet,
Chennai.

3.The Director of Treasuries and Accounts,
Panagal Building,
Jennis Road,
Saidapet,
Chennai.

+2CC to Mr.K.Vamanan, Advocate, SR.No. 52575 & 52576
+2CC to Mr.K.Sathya Singh, Advocate, SR.No. 52422 & 52423

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AM/GT/SAR 1/19.03.2018/3P/8C