



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP (MD) .Nos.16974 & 16975 of 2013

M.Balasubramanian .. Petitioner in W.P (MD) .No.16974 of 2013
S.Gnabaranam .. Petitioner in W.P (MD) .No.16975 of 2013

Vs .

1. The Government of Tamilnadu,
Rep. by its Special Commissioner-cum-Secretary,
Transport Department,
Fort St.George,
Chennai-9.
2. The 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. ... Respondents in both WPs
4. The Managing Director,
Tamilnadu State Transport Corporation (Tirunelveli),
Tirunelveli. ... 4th Respondent in WP (MD) No.16974/2013
5. The Managing Director,
State Express Transport Corporation Tamilnadu Limited,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai-600 002. ... 4th Respondent in WP (MD) No.16975/2013
6. The General Manager,
Tamilnadu State Transport Corporation (Tirunelveli),
Nagercoil Division, Nesamony Nagar,
Ranithottam,
Nagercoil-629 001. ... 5th Respondent in WP (MD) No.16974/2013



7. The General Manager,
State Express Transport Corporation Tamilnadu Limited,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai-600 002. ... 5th Respondent in WP(MD)No.16975/2013

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, 032052/C4/SETC/13 dated 24.07.2013, 09.07.2013 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.

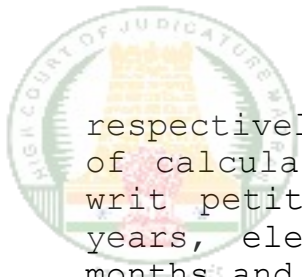
For Petitioner : Mr.K.Vamanan in both WPs
For Respondents : Ms.VPM.Vaishnavi (for R1 to R3)
Government Advocate
Mr.K.Sathiyasingh (for R4 & R5)
(in both petitions)

ORDER

The relief sought for in these writ petitions is to direct the respondents to disburse the Government Pensionary Benefits to the writ petitioners in accordance with the Tamilnadu Pensionary Rules.

2.The claim of the writ petitioners were rejected on the ground that they have not completed the minimum qualifying service of ten years as required under Tamilnadu Pensionary Rules for the purpose of grant of pensionary benefits and pension. The writ petitioners were initially appointed in the erstwhile State Transport Corporation under the Department of Transport. The services rendered in the erstwhile Transport Corporation attracts the provisions of the Tamilnadu Pensionary Rules, 1978 and the employees, who have completed ten years of qualifying service are eligible to get pensionary benefits and pension in accordance with the Pension Rules. However, the case of the writ petitioners was rejected on the ground that they have not completed ten years of service.

3.The learned counsel appearing on behalf of the writ petitioners states that the writ petitioner in W.P(MD).No.16974 of 2013 had served nine years eleven months and twelve and half days and the writ petitioner in W.P(MD).No.16975 of 2013 had served nine years eleven months and five days and therefore the shortage is only seventeen and half days and twenty five days respectively. He further states that as per the Rule 43 (3) of the Tamilnadu Pensionary Rule, the short fall of 17 and ½ days and 25 days



respectively were to be rounded off as full half year for the purpose of calculating the qualifying service. Thus, the services of the writ petitioners in the erstwhile Transport Corporation for nine years, eleven months twelve and half days and nine years eleven months and five days, respectively are to be rounded off ten years as qualifying service and accordingly, the pensionary benefits and pension is to be disbursed under the provisions of the Tamilnadu Pensionary Rules.

4. In this regard, this Court has considered the very same issue in W.P(MD).No.8702 to 8707 of 2016 and the order was passed on 11.09.2017 and the relevant paragraphs are extracted here under:-

"3. However, the learned counsel for the writ petitioners submitted that the Government issued G.O.Ms.No.24, Finance (Pension) Department dated 13.01.1986, in respect of calculating the length of qualifying service for the purpose of pension benefits. Following the aforesaid Government Order, the Tamil Nadu Pension Rules, 1978 was amended. The amended Rule 43 (3) of the Tamil Nadu Pension Rules, reads as follows:

"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."

4. In this regard, the counter affidavit filed by the third respondent also enumerates the period of service rendered by the writ petitioners.

5. Thus, it is clear that the writ petitioners have completed nine years and 11 months of service and the writ petitioner in W.P.No.8706 of 2016, completed nine years and 9 months of service. Thus, all the writ petitioners are eligible for computing the period of qualifying service as one full year and accordingly they have to be considered as if they have completed ten years of service for the purpose of grant of pension under the Tamil Nadu Pension Rules, 1978.

6. In this view of the matter, the writ petitioners are entitled for pension as applicable under the provisions of the Tamil Nadu Pension Rules and the respondents are directed to grant pension to all the writ petitioners by treating the period of qualifying service as ten years under the provisions of the Tamil Nadu Pension Rules and accordingly, calculate and disburse the pension and the arrears of pension as applicable, within a period of twelve weeks from the date of receipt of a copy of this order. "

5. When the Tamilnadu Pensionary Rules, which permits that fraction of a year is equal to three months and above shall be



treated as complete one half year and reckoned the qualifying service. There is no reason to deny the pensionary benefits to the writ petitioners in respect of the service rendered by them in the erstwhile Transport Department under the Tamilnadu Pensionary Rules.

6. In this view of the matter, the writ petitions are to be considered and accordingly, the writ petitioners are entitled for getting pension as applicable under the Tamilnadu Pension Rules and the respondents are directed to grant the same to the petitioners by treating the period of qualifying services as ten years under the Tamilnadu Pension Rules, 1978 and accordingly, calculate and disburse all the pensionary benefits and pension arrears and pension as applicable within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions stand allowed. No costs.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

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.

+ 2 CC TO Mr.K.VAMANAN, ADVOCATE IN SR Nos. 52577 & 52578
+ 2 CC TO Mr.K.SATHIYA SINGH, ADVOCATE IN SR Nos. 52421 & 52424
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52899

RMK/TA

TE/JC/SAR-4 : 20/04/2018 : 4P/9C

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