

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 551 of 2015

The Secretary to Government,
Transport Department,
Secretariat,
Chennai - 600 009

... Appellant

Vs.

1. M. Arumugam (Deceased)

2. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division - I Ltd,
Villupuram - 605 602

3. Selvi. A. Sarasawathi

4. A. Ravi

5. M. Karunanithi

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 04.03.2014 in W.P. No. 16231 of 2008 on the file of this Court.

W.P.No.16231 of 2008:

सत्यमेव जयते

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to G.O.Ms.No.42 Transport Department dated 27.5.2005 and to quash the condition in para 5(a) as to exclude the daily wages period in calculating the net qualifying service as illegal and consequently to direct the Respondents to take steps to sanction pension to the Petitioner by counting the period of service from 16.10.71 to 31.3.82 for payment of pension arrears from 1.1.88 within a time frame.

For Appellant : Ms. A. Sri Jayanthi,
Spl. Government Pleader

For Respondents : No Appearance for R2
Mr.N.Sundaramurthy
for R3 to R5

JUDGMENT

(Delivered by M.M.Sundresh,J.)

This appeal is preferred against the order of the learned Single Judge, who issued direction to the appellant to pay the pension by giving benefit of services rendered from the date of initial appointment till the date of the absorption.

2. Learned Special Government Pleader submitted that the service record would show that the first respondent (deceased employee) joined on 15.12.1971. However, the same could not be brought to the notice of this Court. Therefore, the learned Single Judge was not correct in holding that the first respondent (deceased employee) has put in service of 9 years 5 months and 3 days, which can be rounded off as 10 years, as per the Rules.

3. We are not inclined to accept the above submissions. Even in the grounds of appeal it has been stated that by inadvertence the correct facts are not placed before the learned Single Judge. If that is the case, appeal is not a remedy. We do not find any error in the order of the learned Single Judge, who passed an order by taking into consideration the relevant materials available before him. The writ petition has been filed in the year 2008, now more than a decade has elapsed. This Court cannot go into such disputed question of fact at this belated point of time, after a decade.

4. However, we make it clear that the benefits cannot be granted to the first respondent (deceased employee) with retrospective effect. In such view of the matter, the order of the learned Single Judge, as confirmed, will have to be complied only prospectively starting from the date of the order of the learned Single Judge.

5. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

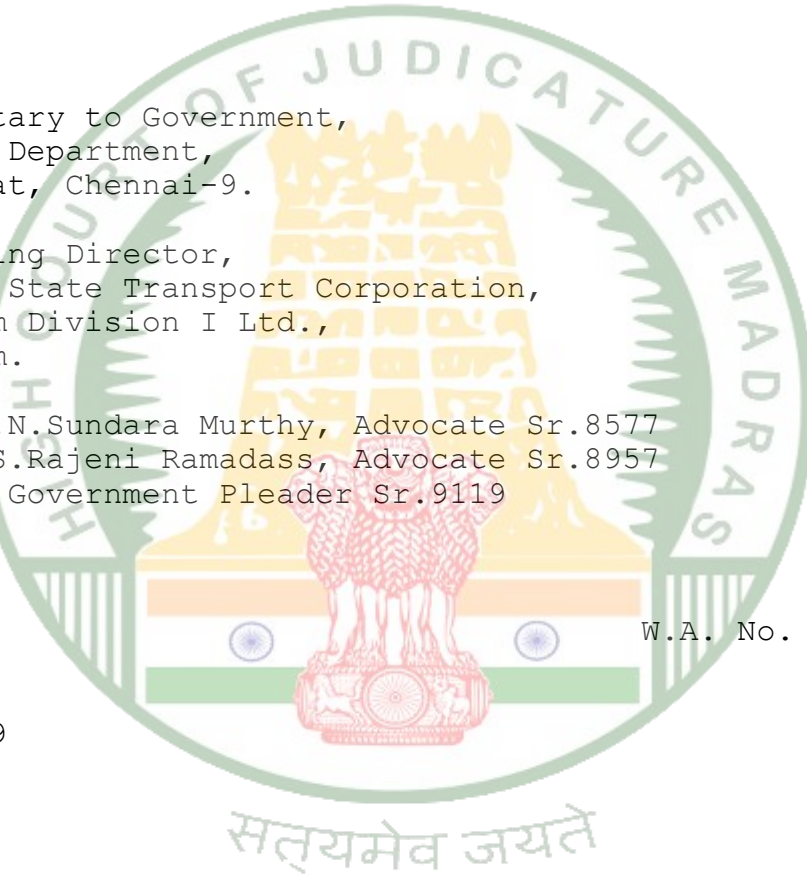
1.The Secretary to Government,
Transport Department,
Secretariat, Chennai-9.

2.The Managing Director,
TamilNadu State Transport Corporation,
Villupuram Division I Ltd.,
Villupuram.

+1cc to M/S.N.Sundara Murthy, Advocate Sr.8577
+1cc to Mr.S.Rajeni Ramadass, Advocate Sr.8957
+1cc to the Government Pleader Sr.9119

W.A. No. 551 of 2015

vsn II[co]
srg 2/3/2019



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