

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.1980 of 2019

V.Elumalai

... Petitioner

Vs

1. The Secretary to Government
Finance (Pension) Department secretariat
Fort st.George, Chennai-9.
- 2.The Deputy Secretary to Government
Transport (RW1) Department, Secretariat
Fort St.George, Chennai 600 009.
- 3.The Managing Director, Tamil Nadu State
Transport Corporation, now called as M.T.C.
No.2, Pallavan Salaim Chennai 600 002.
- 4.The Deputy Manager, Tamil Nadu State
Transport Corporatio, No.2, Pallavan Salai
Chennai 600 002.
- 5.The Branch Manager, Tondiarpet Transport
Transport Depot, Tondiarpet, Chennai 600 081.
6. The Principal Accountant General of Tamil Nadu
Accounts and Entitlement, O/o the Accountant
General, Teynampet, Chennai 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents 1 to 5 to send proposals to the sixth respondent under the Madras Liberalised Pension Rule, 1960 and consequential direction to the sixth respondent to sanction pension with all consequential pensionary benefits from petitioners date of retirement in the light of judgment passed in W.P.(MD) No.1181/2008 and W.A.(MD) No.776 to 778 of 2011 dated 29.09.2015.

For Petitioner : M/s.S.Krishna Priya
For Respondent : Mr.R.S.Selvam,
Government Advocate for R1 & R2
Ms.Rajini Ramadoss,
Standing Counsel - R3 to R5

O R D E R

The grievance of the petitioner is that he was denied pension after his retirement from the third respondent corporation, on the ground that he had opted for OSSR (Operational Subordinate Service Rules) Scheme 1960 and hence he was not eligible.

2. Learned counsel for the petitioner submits that a similarly placed person as that of the petitioner had challenged the denial of pension in W.P.(MD) No.1181 of 2008 and the learned single Judge allowed the writ petition and directed the respondents therein to provide pensionary benefits to the petitioner under the Madras Liberalised Pension Rules, 1960. The said order was challenged by the Government and the Madurai Bench of the Madras High Court, by an order dated 28.01.2011 in W.A.SR.No.40406 of 2010, dismissed the appeal at the admission stage itself. The judgment of the Division Bench of this Court dated 28.01.2011 which was subsequently upheld by the Supreme Court in S.L.P.No.27285 of 2011. The said judgment of the Supreme Court was also followed in the case of other similarly placed persons in W.A.(MD) Nos.776 to 778 of 2011. Relying on the said judgments, the petitioner made a representation dated 07.09.2015 to extend similar relief to the petitioner, which was not considered by the respondents. Subsequently, the petitioner made an application under the RTI Act on 03.11.2018, to which he received a reply that he is eligible and entitled for pension from the date of his retirement.

3. Therefore, the petitioner has filed the present writ petition seeking a direction to the respondents 1 to 5 to send proposals to the sixth respondent under the Madras Liberalised Pension Rule, 1960 and consequential direction to the sixth respondent to sanction pension with all consequential pensionary benefits from petitioner's date of retirement in the light of the judgment passed in W.P.(MD) No.1181/2008 and W.A.(MD) No.776 to 778 of 2011 dated 29.09.2015.

4. Mr.R.S.Selvam, learned Government Advocate takes notice for the first and second respondents and Ms.Rajeni Ramadoss, learned Standing Counsel takes notice on behalf of the respondents 3 to 5.

5. Considering the facts and circumstances of the case, without going into the merits of the matter, the first and second respondents are directed to consider the representation of the petitioner dated 07.09.2015, in the light of the judgment passed in W.P.(MD) No.1181/2008 and W.A.(MD) No.776 to 778 of 2011 dated 29.09.2015, and pass orders, after affording an opportunity of personal hearing to the petitioner. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of in the above terms. No costs.

Sd/-

Assistant Registrar

//True Copy//

kst

Sub Assistant Registrar

To

1. The Secretary to Government
Finance (Pension) Department secretariat
Fort st.George, Chennai-9.
 - 2.The Deputy Secretary to Government
Transport (RW1) Department, Secretariat
Fort St.George, Chennai 600 009.
 - 3.The Managing Director, Tamil Nadu State
Transport Corporation, now called as M.T.C.
No.2, Pallavan Salaim Chennai 600 002.
 - 4.The Deputy Manager, Tamil Nadu State
Transport Corporatio, No.2, Pallavan Salai
Chennai 600 002.
 - 5.The Branch Manager, Tondiarpet Transport
Transport Depot, Tondiarpet, Chennai 600 081.
 6. The Principal Accountant General of Tamil Nadu
Accounts and Entitlement, O/o the Accountant
General, Teynampet, Chennai 600 018.
- +1 cc to The Government Pleader, Sr.No.6518
+1 cc to M/s.S.Krishna Priya, Advocate Sr.No.6103

W.P.No.1980 of 2019

SAI (CO)
CSL/14.02.2019