

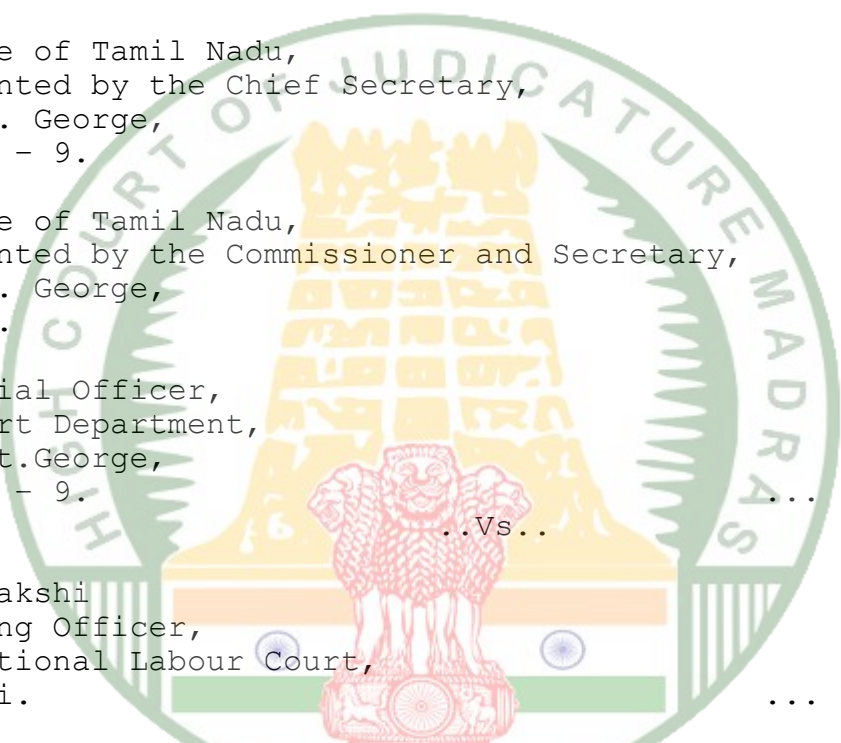
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31674 of 2004
and
W.M.P.No. 38394 of 2004

- 
- 1.The State of Tamil Nadu,
Represented by the Chief Secretary,
Fort St. George,
Chennai - 9.
- 2.The State of Tamil Nadu,
Represented by the Commissioner and Secretary,
Fort St. George,
Chennai.
- 3.The Special Officer,
Transport Department,
Fort St.George,
Chennai - 9. Petitioners
- ...Vs...
- 1.G.Vishalakshi
2. Presiding Officer,
I Additional Labour Court,
Chennai. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the second respondent relating to the order passed in C.P.No.554/2000 on the file of the I Additional Labour Court, Chennai dated 29.04.2003 and quash the same.

For Petitioners : Mr.J.Ramesh
Additional Government Pleader

For R1 : No appearance

For R2 : Labour Court

O R D E R

The relief sought for in the present writ petition is to quash the order dated 29.04.2003, passed in C.P.No.554/2000.

2. The writ petitioner is the State of Tamil Nadu represented by the Chief Secretary, Fort St.George, Chennai -9. The petitioner states that the first respondent's deceased father T.G.Sivalingam was a Driver in the erstwhile Tamil Nadu State Transport Department prior to 11.1.1974. The categories of Drivers and Conductors of the erstwhile Tamil Nadu State Transport Department were governed by the separate set of non-pensionable service Rules viz., Tamil Nadu State Transport Department Operation Subordinate Service Rules. According to these rules, the above categories of employees are eligible for gratuity under Special Gratuity Rules. The above categories of employees are eligible for gratuity under Special Gratuity Rules and Provident Fund benefits under the Contributory Provident Fund Scheme. They were not entitled for pensionary benefits under the Tamil Nadu Liberalized Pension Rules 1960. Accordingly, the retirement benefits namely gratuity and the employee's and employers share of the Provident Fund were already settled at the time of their retirement. In G.O (Ms) No.212 Transport Department dated 28.03.1974 orders were issued extending the Tamil Nadu Liberalized Pension Rules 1960 to the above categories of the employees of the erstwhile Tamil Nadu Transport Department. This order came into force on 11.01.1974. In paragraph 5 of the G.O.(Ms) No.212, Transport dated 28.03.1974, it is provided that the employees who joined the Tamil Nadu State Transport Department on or after 11.01.1974 will alone be governed by the Tamil Nadu Liberalized Pension Rules 1960. It is further submitted that in paragraph 3(b) of the above Government Order that in respect of the retired employees to whom retirement benefits were finally settled under the non-pensionable establishment rules, their cases will not be re-opened. It is submitted that the first respondent's father retired prior to 11.01.1974 (i.e.) prior to the introduction of the Pension Scheme and his retirement benefits were already settled under the non-pensionable Establishment Rules.

3. In view of the fact that the deceased employee was not entitled for pension, the case of the respondent was not considered. The Labour Court without considering the rule possession, held that the father of the first respondent had retired prior to 11.01.1974, is entitled to the benefit of the pensionary scheme ordered by the Government with effect from 11.01.1974.

4. This Court is of the opinion that in respect of the erstwhile department employees the Government Rule alone is binding and the claim petition filed in this regard cannot be entertained as the rules relating to the service of the Government employees will prevail over the general law and accordingly the findings of the Labour Court is perverse and not in consonance with the settled principles of law. Once the Government rules are applicable in respect of the Government employees, the same will prevail over the general law and therefore, the Industrial Disputes Act, cannot be applied in respect of the Government employees for payment of pensionary benefits.

5. In this view of the matter, the impugned order dated 29.04.2003 passed in C.P.No.554 of 2000 is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Pns

To

Presiding Officer,
I Additional Labour Court,
Chennai.

+1cc to the Government Pleader SR.81584

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LN(CO)
CB(21/11/2019)

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