

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.20910 of 2005

The Government of Tamil Nadu,
rep.by the Secretary to Government,
Transport Department,
Fort St.George, Chennai-9.

... Petitioner

Vs

1.N.Dharanendran

2.The Presiding Officer,
II Additional Labour Court,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, to call for the records of the 2nd respondent herein, dated 17.09.2003 in C.P.No.231 of 1999, and quash the same.

For Petitioner : Mr.J.Ramesh

For Respondents : Non-appearance for R1.
R2-Labour Court.

ORDER

The order dated 17.09.2003 passed in C.P.No.231/1996 is sought to be quashed.

2. The writ petitioner is the Government of Tamil Nadu represented by the Secretary to Government, Transport Department.

3. The writ petitioner states that the first respondent/workman was employed in TNSTD as driver on daily rated employment on 26.08.1964 and he was absorbed in the time scale of pay with effect from 01.11.1965. He was permanently absorbed in PATC Limited (now TNSTC Limited, Vellore) with effect from 01.05.1975 and on his permanent absorption in the Transport Corporation, he is considered to be a Government servant, and he has put a net qualifying Government service of 9 years, 4 months and 21 days.

4. The first respondent/workman claimed Government pension under the Tamil Nadu Pension Rules on the ground that he has served in the erstwhile Transport Department. The Labour Court

has also considered the case of the writ petitioner and allowed the claim petition by computing the salary as well as the arrears of pension.

5. This Court is of the considered opinion that though the employee claims pension under the provisions of the Tamil Nadu Pension Rules, the Tamil Nadu Pension Rules contemplates that 10 years of qualifying services is required for granting of minimum pension. Only employees who have completed 10 years of service in the Transport Department are entitled to get pension under the Tamil Nadu Pension Rules.

6. In the present case, the first respondent/workman had rendered service for 9 years, 4 months and 21 days, and he had not even completed 9 ½ years of service. Therefore, the case of the first respondent/workman was erroneously considered by the Labour Court for allowing the claim petition. This apart, the first respondent/workman had not raised any industrial dispute and orally he has filed a claim petition for the purpose of computing the pension, which cannot be entertained. In view of the fact that issues were disputed by the Government, and disputed issues cannot be adjudicated in a claim petition under Section 33C(2) of the Industrial Disputes Act, this Court is of the opinion that the order of the Labour Court is perverse and in violation of the principles of the Tamil Nadu Pension Rules. Consequently, the order dated 17.09.2003 passed in C.P.No.231 of 1999 is quashed.

7. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

ssb

To

The Presiding Officer, II Additional Labour Court,
Chennai.

+1cc to Government Pleader, SR.No.84516.

W.P.No.20910 of 2005

SR (CO)
CSR(19/12/2019)