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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WA.No.3579/2019 & CMP.No.22972/2019

1.The Government of Tamil Nadu  
rep.by the Secretary to Government  
Transport Department, Fort St George  
Madras - 600 009.

2.The Secretary  
Department of Finance [SR.II]  
Fort St George, Madras 600 009.

.. Appellants

Versus

1.Y.Poulose  
2.Nesamany Transport Corporation Limited  
represented by its Managing Director,  
Nagercoil, Kanyakumari District.

..Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.04.2001 made in WP.No.16484/1994 on the file of this Court.

Prayer in Writ Petition:- Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 3<sup>rd</sup> respondent passed in his letter No.24725/Admn-4/NTC/92 dated 01.02.1993 and quash the same and direct the respondents herein to sanction pension to the petitioner from 11.06.1992 consider his services in the Transport Department, for over 25 years in terms of the judgment in WP.No.6969/1990.

For Appellants : Mr.P.S.Sivashanmugasundaram  
Special Government Pleader

#### JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

(1)The official respondents in WP.No.16484/1994 are the appellants herein and aggrieved by allowing of the writ



petition, vide impugned order dated 24.04.2001, have filed the writ appeal on 28.11.2001 and it came to be numbered only on 24.10.2019.

(2) The 1<sup>st</sup> respondent/writ petitioner was appointed as Conductor in the erstwhile Tamil Nadu State Transport Corporation/Department on 13.07.1966 on daily wages and was absorbed in the monthly cadre with the time scale of pay with effect from 01.08.1967. As a policy decision, the transport services run by the State Government were taken over by various State owned Transport Corporations and the said Transport Department got disbanded with effect from 15.09.1975 and all the employees were absorbed permanently in various Transport Corporations based on the options exercised by them. The writ petitioner/1<sup>st</sup> respondent herein was absorbed in Kattabomman Transport Corporation with effect from 01.05.1975 based on the option exercised by him and with a specific undertaking that he will relinquish all his rights enjoyed in the erstwhile Tamil Nadu State Transport Department. It is the stand of the official respondents that in the light of relinquishment, the writ petitioner/1<sup>st</sup> respondent herein is not entitled to make a plea for considering the service in the Transport Department for over 25 years for the purpose of pensionary benefits.

(3) The learned Single Judge of this Court, after perusing the materials, and considering and appreciating the arguments advanced, has placed reliance upon the common judgment rendered by the Division Bench of this Court in WA.Nos.522/1992 and 962/1993 and has upheld the case of the writ petitioner/1<sup>st</sup> respondent herein and allowed the writ petition with a consequential direction, directing the official respondents to sanction pension to the petitioner from 11.06.1992, considering his services in the Transport Department for over 25 years.

(4) Mr. P. S. Sivashanmugasundaram, learned Special Government Pleader appearing for the appellants/official respondents would submit that the original cut off date was of the year 1975 and at that time, the 1<sup>st</sup> respondent/writ petitioner had put in 7 years of service and the cut off date has been modified to 31.03.1982 and as such, the 1<sup>st</sup> respondent/writ petitioner would have been entitled to count the service as the Conductor.

(5) This Court has considered the submissions made by the learned Special Government Pleader appearing for the appellants/official respondents and also perused the materials placed before it.



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(6) The fact remains that the 1<sup>st</sup> respondent/writ petitioner was aged about 52 years when he filed the writ petition in the year 1994 and the impugned order itself came to be passed as early as on 24.04.2001 and though the writ appeal was filed on 28.11.2001, it came to be numbered only on 24.10.2019.

(7) In the impugned order, the learned Single Judge has placed reliance upon the common judgment dated 16.09.1997 made in WA.Nos.522/1992 and 692/1993 to accord the relief the 1<sup>st</sup> respondent/writ petitioner and in the absence of any challenge to the said order, it cannot be stated to be perverse and following the said common judgment dated 16.09.1997, had allowed the writ petition. This Court also taken note of the submission made by the learned Special Government Pleader appearing for the appellants that the cut off year of 1975 has been modified to 31.03.1982 and hence, this Court is of the considered view that there is no error apparent or infirmity in the reasons assigned by the learned Single Judge in allowing the writ petition and finds no merits in the writ appeal.

(8) In the result, the writ appeal stands dismissed confirming the order dated 24.04.2001 made in WP.No.16484/1994. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government, Government of Tamil Nadu  
Transport Department, Fort St George, Madras - 600 009.
- 2.The Secretary  
Department of Finance [SR.II], Fort St George, Madras 600 009.
3. The Managing Director,  
Nesamany Transport Corporation Limited  
Nagercoil, Kanyakumari District.

AKM/20.12.19/3P-5C /

WA.No.3579/2019