



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.03.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD)No.19911 of 2016

K.Pitchai

... Petitioner

vs.

1. The Secretary to Government,
Transport Department,
Chennai.

2. The General Manager,
Tamilnadu Transport Corporation,
Madurai Region,
Dindigul District.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to give the arrears of pension to the petitioner from 30.09.1998 to as on date and to give the monthly pension continuously.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.A.Jeyaram

ORDER

The Writ Petition is filed seeking a direction to the respondents to give the arrears of pension to the petitioner from 30.09.1998 to as on date and to give the monthly pension continuously.

2. Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

3. The case of the petitioner is that he was appointed as driver under the second respondent department on 10.04.1980 and he retired from service on 30.09.1998 under Voluntary Retirement Scheme. After his retirement, he got all the benefits from the second respondent except his pension. Hence, he made so many representations and finally on 12.09.2016 seeking pension. Since the same have not been considered so far, the present Writ Petition is filed before this Court.

4. The learned Counsel appearing for the respondents submitted that the petitioner's eligibility itself is questionable, since he was not entitled for pension. He brought to the notice of this Court to paragraph No.4 of the counter affidavit filed by the second respondent wherein it is stated as follows:



"4. I state that the petitioner was availed in long leave on loss of pay and absented for duty for the period from June 1998 to till the date of voluntarily retirement of the petitioner's service on 30.09.1998. The petitioner not performed even a single day duty on or after 01.09.1998 in the respondent Corporation and hence, no salary was paid to the petitioner. In the situation, the employee contribution of a single rupee was not paid to the TNSTC EPF Trust from June 1998 to till his Voluntarily Retirement Scheme. As per the TNSTC EPF Trust Rule, the Corporation employee those who stand on role on or after 01.09.1998, who is entitled to get pension based on the remittance of contribution. But the petitioner was not paid in a single rupee as his contribution to the TNSTC EPF Trust, as the petitioner was on "No work No pay". Therefore the petitioner is not entitled to get pension as per provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules."

5. The said statement is refuted by the learned Counsel appearing for the petitioner.

6. In such view of the matter, without going into the merits of the petitioner's case, the respondents are directed to consider the representation of the petitioner dated 12.09.2016 seeking pension and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of with the above direction. No costs.

sd/
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Transport Department,
Chennai.
2. The General Manager,
Tamilnadu Transport Corporation,
Madurai Region,
Dindigul District.



+1 CC to Mr.G.GOMATHI SANKAR, Advocate (SR-56707[F] dated 26/03/2019)

+1 CC to SPL GP (SR-57552[F] dated 28/03/2019)

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