



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.23897 of 2019

N.Sekar

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Transport Department, Fort St. George,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam-612 001.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees' Pension Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to revise and settle the gratuity and pensionary benefits by considering the petitioner's entire services from 29.04.1984 to 31.07.2018 and settle the same with interest at the rate of 12% per annum within the stipulated time that may be fixed by this Court.

For Petitioner: Mr.AL.Kannan
For R1 : Mr.S.Dhayalan,
Government Advocate.
For R2 : Mr.D.Sivaraman
For R3 : Mr.A.Swaminathan

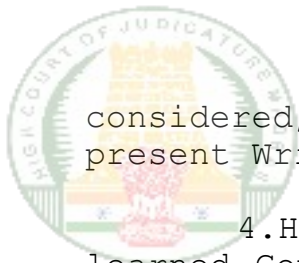
ORDER

This Writ Petition is filed to direct the respondents to revise and settle the gratuity and pensionary benefits, by considering the petitioner's entire services from 27.04.1984 to 31.07.2018 and settle the same with interest at the rate of 12% per annum within the stipulated time that may be fixed by this Court.



2.Mr.S.Dhayalan, learned Government Advocate takes notice on behalf of the first respondent, Mr.D.Sivaraman, learned counsel takes notice on behalf of the second respondent and Mr.A.Swaminathan, learned counsel takes notice on behalf of the third respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner initially joined the service of Cholan Roadways Corporation Limited (Now, functioning as Tamil Nadu State Transport Corporation (Kumbakonam) Limited) on 27.04.1984 as Junior Assistant (Trainee). While he was serving in Cholan Roadways Corporation Limited, with permission, he applied for the post of Superintendent (Legal) in Annai Sathiya Transport Corporation Limited (Now, functioning as Tamil Nadu State Transport Corporation (Salem) Limited, Dharmapuri Region). The petitioner was selected for the post of Superintendent (Legal) in Annai Sathiya Transport Corporation Limited. The Cholan Roadways Corporation Limited has relieved the petitioner on 15.02.1989 and on the next date ie., 16.02.1989 as a fresh entrant in the post of Superintendent (Legal), he joined in Annai Sathiya Transport Corporation Limited. He was promoted as Senior Superintendent (Legal) on 19.04.1994, by the proceedings dated 17.09.1994, and transferred to the Dheeran Chinnamalai Transport Corporation Limited, Trichirappalli, (Now functioning as Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Trichy Region) and promoted to the post of Section Officer on 20.07.2005, subsequently, Deputy Manager on 11.12.2014 and retired on 31.07.2018, on attaining the age of superannuation. The second respondent has issued statement with regard to the payment of gratuity and pension. The petitioner came to know that his service in Cholan Roadways Corporation Limited from 27.04.1984 to 15.02.1989 was not taken into consideration for calculating the terminal benefits. However, the respondents have taken the said period for payment of Provident Fund. As per Rule 37 of the Common Rules and 16(e) of the Tamil Nadu State Transport Corporation Employees Pension Trust Rules, when a person resigns his post with permission to join in Government Service or Government Organization, the services rendered by him in earlier Organization must be taken into consideration for gratuity and pension. Therefore, the petitioner gave a representation for revision of pension and payment of gratuity and pension. The Board of Directors of the second respondent Corporation has passed a resolution on 08.08.2019 to count the service of the petitioner rendered between 27.04.1984 to 31.07.2018, including the past services rendered by the petitioner in Cholan Roadways Corporation Limited from 27.04.1984 to 15.02.1989, for pensionary benefits and calculating the gratuity. Even after approval by the Board of Directors, pension was not revised, taking into consideration the earlier services rendered by the petitioner in Cholan Roadways Transport Corporation and eligible pension was not paid. The petitioner has given another representation dated 27.08.2019. However, the same has not been



considered, so far. Hence, the petitioner has come out with the present Writ Petition.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent, the respective learned counsel appearing for the respondents 2 and 3 respective and perused the materials available on record carefully.

5. From the materials on record, it is seen that the petitioner was appointed on 27.04.1984 as Junior Assistant (Trainee) in Cholan Roadways Corporation Limited and resigned the said post to join as Superintendent (Legal) in Annai Sathiya Transport Corporation Limited. The said resignation was accepted and the petitioner was relieved with effect from 15.02.1989 and on 16.02.1989, he joined as Superintendent (Legal) in Annai Sathiya Transport Corporation Limited. The grievance of the petitioner is that his resignation was accepted with permission to join as Superintendent (Legal) in Annai Sathiya Transport Corporation Limited and after serving in the said Corporation, subsequently, the petitioner was transferred to Dheeran Chinnamalai Transport Corporation Limited, Trichirappalli and after serving in various posts, he retired from service on 31.07.2018 as Deputy Manager, on attaining the age of superannuation. The respondents did not take into consideration his service rendered in Cholan Roadways Corporation Limited for the purpose of calculating pension and gratuity. The respondents have paid only Provident Fund for the service rendered by the petitioner in Cholan Roadways Corporation Limited from 27.04.1984 to 15.02.1989. But, the respondents did not take into consideration the service rendered by the petitioner in Cholan Roadways Corporation Limited from 27.04.1984 to 15.02.1989.

6. As per the Rule 16(3) of the Tamil Nadu State Transport Corporation Employees Pension Trust Rules, it is clear that the petitioner is entitled to gratuity and pension, taking into consideration the service rendered in Cholan Roadways Corporation Limited also. However, the respondents have granted only Provident Fund, taking into account the said service and the amounts contributed by the petitioner as well as the Cholan Roadways Corporation Limited were transferred to the Annai Sathiya Transport Corporation Limited and the same was paid and the same has also been mentioned in the Board resolution dated 08.08.2019. However, the respondents have not revised the pension as well as the gratuity, taking into account the service rendered by the petitioner in Cholan Roadways Corporation Limited. This Court, in W.P.(MD) No.5905 of 2013, by its order dated 05.12.2013, considering the Rule 16(e) of the Tamil Nadu State Transport Corporation Employees Pension Trust Rules, has quashed the impugned order therein and directed the respondents therein to pass consequential order, taking into consideration the entire service of the petitioner therein. The said ratio is squarely applicable to the case of the petitioner.



7. For the above reasons, this Writ Petition is allowed as prayed for. No costs.

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// True Copy //

Sd/-

Assistant Registrar ()

Sub Assistant Registrar(CS)

To

1. The Principal Secretary to Government,
Transport Department, Fort St. George,
Chennai-600 009.

2. The Managing Director,
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(Kumbakonam) Limited,
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3. The Administrator,
Tamil Nadu State Transport Corporation
Employees' Pension Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002.

+1 CC to M/s. Special Govt. Pleader (SR-98409[F] dated 14/11/2019)
+1 CC to M/s. D. SIVARAMAN, Advocate (SR-98479[F] dated 15/11/2019)
+1 CC to M/s. AL. KANNAN, Advocate (SR-98810[F] dated 15/11/2019)

W.P. (MD) No. 23897 of 2019
13.11.2019

Myr

SDS (16.12.2019) 4P 7C