



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No. 14873 of 2013

V.Palanisamy

... Petitioner

Vs.

1. The Managing Director  
Tamil Nadu State Transport Corporation  
Kumbakonam  
Thanjavur District

2. The General Manager  
Tami Nadu State Transport Corporation  
Pudukottai  
Pudukottai District

3. The Branch Manager  
Tamil Nadu State Transport Corporation  
City -I, Pudukottai  
Pudukottai District

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to bring petitioner under the regular pension scheme.

For Petitioner : Mr.Saji Bino

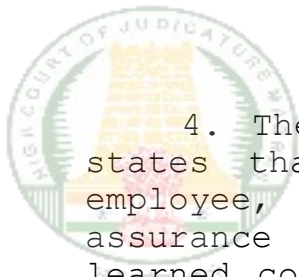
For Respondents : Mr. D.Sivaraman  
Standing Counsel

### O R D E R

The relief sought for the in the present writ petition is to bring the Writ Petitioner under the regular pension scheme.

2. The learned counsel for the Writ Petitioner states that Writ Petitioner has served more than 480 days as driver under the Tamil Nadu State Transport Corporation and he was initially appointed on 04.04.2001 through sponsorship from the Employment Exchange. After completion of 240 days, as per settlement under Section 12(3) of the Industrial Dispute Act, 1947, his service ought to have been regularised by the respondent. However, the respondent had not regularised his service.

3. The learned counsel for the Writ Petitioner is of the opinion that inview of the fact that the Writ Petitioner had completed 480 days of service , then regularization ought to have been granted w.e.f., from 2001 onwards. However, the fact remains that the benefit was not given by the respondents.

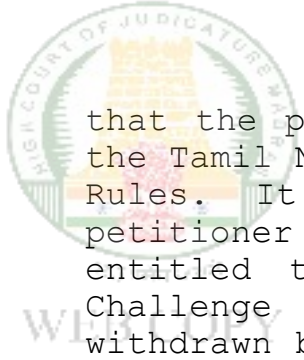


4. The learned counsel appearing on behalf of the respondent states that the petitioner was initially engaged as casual employee, but at no point of time, he was provided with any such assurance of bringing him into regular old pension scheme. The learned counsel for the respondent solicited the attention of this Court with reference to the order of appointment issued to the writ petitioner, which is enclosed at page no.6 in typed set of papers filed along with the writ petition. It is contended that the writ petitioner was temporarily appointed on 13.01.2005 and terms and conditions imposed in the order of appointment more specifically in clause(9) categorically states as follows:

" 7. I submit that as per the 12(3) wage settlement of I.D.Act 1947 dated 31.08.2005 the petitioner was employed on daily wage basis by an order dated 01.09.2005 and he was paid at the rate of Rs.179/- per day which is higher than the pay for casual employees which was Rs.123/- per day. Had the petitioner completed 240 days of service from 01.09.2005 he would have been absorbed as a permanent employee and fitted in the appropriate scale of pay. The petitioner for reasons best known to him, having joined duty and continued to work till 06.12.2005, did not turn up for his employment thereafter and has chosen to file the WP (MD) No.3527 of 2006 before Honourable High Court, Madurai Bench of Madras High Court challenging the order dated 01.09.2005. He also caused to issue an advocate notice dated 13.12.2005 which was duly replied by the respondent corporation by letter dated 21.01.2006"

5. The above terms and conditions of appointment states that the petitioner is not eligible to get pension under the Tamil Nadu State Transport Corporation Employees Provident Fund. It is further stated that the writ petitioner was appointed after 01.04.2003 i.e., after abolition of old pension scheme and therefore, the petitioner is entitled to get benefit under the Contributory Pension Scheme. This being the condition imposed at the time issuing of appointment, the petitioner having accepted the condition and joined in the service now turning around to claim pension under the old pension scheme. The terms and conditions in the order of appointment dated 01.09.2005 is binding on the writ petitioner. It is brought to the notice of the Court that the petitioner has earlier filed a writ petition in W.P(MD) No.2527 of 2006, challenging the appointment order dated 01.09.2005, however the said writ petition had been withdrawn by the petitioner on 09.04.2009. Therefore the petitioner was continuously working by accepting the conditions of appointment.

6. Now the present writ petition is filed on the ground that he is entitled to be included in the old pension scheme. This Court is of the considered opinion that the order of appointment is clear



that the petitioner is not entitled to get pension benefit under the Tamil Nadu State Transport Corporation Employees Provident Fund Rules. It is made clear that in the order of appointment that the petitioner was appointed on 01.04.2003 and therefore, he is entitled to get pension under the Contributory Pension Scheme. Challenge made against the appointment order also had been withdrawn by the petitioner. This being the factum of the case, the petitioner is eligible to get pension under the Contributory Pension Scheme and not under the old pension Scheme. The challenge made against the appointment order also had been withdrawn by the petitioner. This being the factum, the petitioner is eligible to get all the benefits under the Contributory Pension Scheme and not under the old Pension scheme.

8. With this observation, the writ petition is disposed of.  
No costs

Sd/-  
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS )

+1 CC to Mr.S.SAJI BINO, Advocate SR-73855.  
+1 CC to Mr.D.SIVARAMAN, Advocate SR-74113.

**W.P[MD) ]No.14873 of 2013**  
04.06.2019

CS: 15/07/2019 3P 3C