IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.12443, 3015 and 6078 of 2012
and M.P.No.2 in W.P.No.12443 of 2012
and M.P.No.2 in W.P.No.3015 of 2012

W.P.No.12443 of 2012:
T.C.M.Kasim ...Petitioner

vs.

1. The State Transport Corporation (Villupuram) Ltd,
Represented by the General Manager,
31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

2. The Secretary,
State Transport Corporation (Villupuram) Ltd,
31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

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

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the impugned order dated 23.11.2001 in Letter No.44/B2/TNSTC PNAB/2011-9684 issued by the 3rd Respondent herein and quash the same as illegal and direct the Respondents to pay full pension for the Petitioner's services rendered in the State Transport Corporation without deducting the Petitioner's pension granted for Government Service.

W.P.No.3015 of 2012:-
R.Chandrasekaran
...Petitioner

vs.

1. The State Transport Corporation (Villupuram) Ltd,
Represented by the General Manager,
State Transport Corporation,
Villupuram, 31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

2. The Secretary,
State Transport Corporation (Villupuram) Ltd,
31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the impugned order dated 21.01.2012 in Letter No.98765/V.V.Admn. 5/TNSTC(V)/2012 passed by the second respondent and quash the same.

W.P.No.6078 of 2012:-

R.Karunanidhi ...Petitioner

vs.

1. The State Transport Corporation (Villupuram) Ltd,
Represented by the General Manager,
State Transport Corporation,
Villupuram, 31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

2. The Secretary,
State Transport Corporation (Villupuram) Ltd,
31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

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

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus to call for the records of the impugned order dated 23.11.2011 in Letter No.44/B2/TNSTC PNAB/2011-9684 issued by the 3rd Respondent and quash the same as illegal, and direct the

Respondents to pay full pension for the Petitioner's services rendered in the State Transport corporation without deducting the Petitioner's pension granted for Government Service under School Education Department.

* * * * *

For Petitioner in all W.Ps. : Mrs.A.Arulmozhi
For Respondents in all W.Ps. : Mr.C.S.K.Sathish

COMMON ORDER

Challenging the orders impugned herein, Petitioners have come up with the above Writ Petitions. The issue in question revolves around Rule 14(b) of the Tamil Nadu Pension Rules, 1978 (hereinafter referred to as 'Pension Rules'), whereby, payment of pension has been dealt with.

2. Petitioners herein have initially rendered service in the Education Department and thereafter, they have been transferred and absorbed in the Respondent/Transport Corporation. According to the Petitioners, they are entitled to pension for the services rendered in the Education Department.

3. Learned counsel for the Petitioners contended that, in the process of merger of service, benefits that have already been accrued, which have to be extended by way of pension, shall not be reduced or cannot be considered as double pension, when the Petitioners are entitled to pension for the services rendered in the Transport Corporation.

4. Learned counsel appearing for the Respondents vehemently contended that, once Rule 14(b) of the Pension Rules is complied with, the total number of services will have to be restricted to 30 years and naturally, there will be only one pension and the Petitioners are not entitled to claim better benefits than what is provided under Rule 14(b) of the Pension Rules.

5. Learned counsel on either side relied upon a decision of this Court dated 27.09.2006 rendered in W.P.Nos.5856, 6891 and 23181 of 2006, batch that has been confirmed by the Apex Court in Civil Appeal Nos.6715 to 6717 of 2010 vide judgment dated 16.04.2014. Relevant portion of the decision rendered by this Court, is extracted hereunder:

> "54. The working sheet which contains the gross pension taking into consideration service rendered in both Government Department as well as Transport Corporation which comes to 35 years of service wherein the maximum period of

30 years is taken into consideration and after deducting the pension eligible under G.O.Ms.No.1028 namely Rs.1275/-, the balance amount arrived at Rs.1835/-, which is in accordance with clause 14(b) of the Tamil Nade State Transport Employees Pension Fund Rules.

55. On the other hand, in respect of the same employee service rendered by him in the Transport Corporation alone is taken as 25 years and for that purpose the pension to which is eligible is arrived at Rs.2,592/-. By applying the impugned G.O. especially clause 5 (b), the Government's contention is that the said employee will be eligible either Rs.1,835/- as per rule 14(b) or Rs.2,592/- that is the pension exclusively for the service rendered in the Corporation whichever is less namely Rs.1,835/-. This is a total misconception as I have stated earlier. The reason being that by calculating 35 years of service both including in the Government Department as well as the Transport Corporation, the pension received in the Tamil Nadu State Transport Department as per the G.O.Ms.No.1028 namely Rs.1,275/- is deducted that as per clause 14(b) of the scheme. The remaining amount of Rs.1,835/- should be taken as the pension amount due for the Corporation Service alone. On the other hand, by taking strictly in the Corporation Service alone the Employee is entitled for the pension of Rs.2,592/-. That amount of Rs.2,592/- does not include the period of service rendered by the employee in the Tamil Nadu State Transport Department. Therefore, by paying the amount of Rs.1,275/- which is the pension to which he is eligible for the service rendered in the Government Department before his absorption into the Transport Corporations along with the pension amount of Rs.2,592/- namely the pension accrued to him for the service rendered exclusively in the Transport Corporations, one can never come to a conclusion that this would amount to the payment of double pension and therefore hit by rule 7 of the Tamil Nadu Pension Rules."

6. On a reading of the aforesaid decision, it is clear that, the employees concerned therein were initially employed in

a Government Department and thereafter, they were transferred and absorbed in the Transport Corporation. In the meantime, Pension Trust was also formed, from where, pension benefits have been extended to all the employees. Those employees have contended that, the benefits extended for the services initially rendered in the Government Department cannot be clubbed with the services rendered in the Transport Corporation, as the services rendered in the Transport Corporation is an exclusive one and at no stretch of imagination, it could be construed as double pension and therefore, the decision of the Respondent, even assuming that, it is a policy decision, cannot deprive the Petitioners' benefits, which have already been accrued.

7. Learned counsel appearing for the Respondents pointed out that, the words used in the above decision rendered by this Court as regards the initial service rendered by the Petitioners pertain to "Government Department" and not "Education Department" as in the case of the Petitioners herein.

8. On a careful reading of the above decision rendered by this Court, I am of the view that, the same analogy in the above decision rendered by this Court is applicable to the Petitioners herein, who were employed in the Education Department. Accordingly, this Court holds that, the issue on hand is squarely covered by the said decision of this Court, as confirmed by the Apex Court. It is made clear that, arrears due to the Petitioners herein shall be paid within a period of three months from the date of receipt of a copy of this order.

In fine, Writ Petitions are allowed as prayed for, with the above direction and observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The General Manager,
State Transport Corporation (Villupuram) Ltd,
31/37, Salamedu,
Vazhudhareddy,
Villupuram - 605 602.

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

31cc to Mr.A.Arulmozhi, Advocate, S.R.No.32567, 32568, 32569

Common Order in
W.P.Nos.12443, 3015 and 6078 of 2012
and M.P.No.2 in W.P.No.12443 of 2012
and M.P.No.2 in W.P.No.3015 of 2012

NMI(CO)
RV(20/11/2020)