

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12..03..2020
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.31001 of 2013

S.Murugan

... Petitioner

-Versus-

1.The Deputy Secretary,
Transport (RW1) Department,
Government of Tamil Nadu,
Secretariat,
Chennai 600 009.

2.The General Manager (Corporate),
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Letter of the 2nd respondent under reference No.11056/O.Na.tha.Pi-3/MTC/2011-2 dated 01.11.2011 and consequently, direct the 1st respondent to pay pension to the petitioner as per G.O.Ms.No.378, Finance (F.R. Department), dated 18.04.1975.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.S.Thangavel, Spl.G.P. for
R1
Mr.K.Moorthy for R2

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent rejecting the request made by the petitioner for grant of pension, as per G.O.Ms.No.378, Finance (F.R. Department), dated 18.04.1975.

2. The petitioner was working as Driver in the Transport Department of Government of Tamil Nadu. He had joined the department as driver on 14.06.1968. Pursuant to the policy

decision taken by the Government of Tamil Nadu to form separate transport corporations to take over the operation and management of public transport in the Districts concerned, the respondent corporation came into existence in the year 1975. The petitioner was deputed to work in Metro Transport Corporation Limited (formerly known as Pallavan Transport Corporation Limited) on 23.08.1975 and he had continued to work in the corporation. While he was in service, on 26.03.1981, he was removed from service. Thereafter, as per the settlement under Section 18(1) of The Industrial Disputes Act, he was reemployed in the year 1987. Once again he was removed from the service in the year 1994 for unauthorized absence. Thereafter, the petitioner approached the respondent seeking pension as per G.O.Ms.No.42, Transport Department, dated 27.05.2005. That representation was rejected on the ground that since the petitioner was dismissed from the service, he is not entitled for pension. Challenging the same, the petitioner has come forward with the instant writ petition.

3. I have heard the learned counsel appearing for the petitioner; the learned Special Government Pleader appearing for the 1st respondent; and the learned counsel appearing for the 2nd respondent and also perused the records carefully.

4. The learned counsel appearing for the petitioner would contend that that as per G.O.Ms.No.96, Transport (RW1) Department, dated 31.07.2015, the services rendered by the petitioner in the Transport Department should be taken into consideration for the purpose of awarding pension. As per the GO, for the services rendered by the petitioner up to 01.01.1988, he is entitled for pension even though he was dismissed from service by the Transport Department. But, the respondents have erroneously rejected the claim of the petitioner for pension on the ground that he was dismissed from service.

5. The learned counsel appearing for the 2nd respondent would contend that the petitioner is not entitled for pension. Earlier the petitioner was working as driver in the Transport Department, subsequently, on the formation of the separate Transport Corporations based on the policy decision of the Government, the petitioner was transferred to the service of the transport corporation and while he was in service in the corporation, he was dismissed from the service based on the proved charges of unauthorized absence on 26.03.1981. Thereafter, on the request made by the petitioner, there was a settlement under Section 18(1) of the Industrial Disputes Act and accordingly, the petitioner was employed as new entrant. Therefore, according to the learned counsel for the 2nd respondent, the petitioner is not entitled for counting his

services rendered in the transport department.

6. Though the petitioner was dismissed from service in the year 1981, only pursuant to the settlement under Section 18(1) of the Industrial Disputes Act, he was again employed in the year 1987 as fresh entrant. But, he was again dismissed from service in the year 1994. This fact is not disputed by the petitioner. Therefore, under Section 21 of The Tamil Nadu Pension Rules, 1978, the petitioner had forfeited his past services and as such he is not entitled for pension. The respondents having considered the facts and circumstances rightly rejected the claim of the petitioner for pension. This court does not find any illegality or irregularity in the same. Therefore, the order impugned in the writ petition does not require any interference at the hands of this court and the writ petition deserves only to be dismissed.

In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (Writ)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Deputy Secretary,
Transport (RW1) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

2.The General Manager (Corporate),
Metropolitan Transport
Corporation (Chennai) Ltd.,
Pallavan Salai, Chennai 600 002.

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No. 22271
+1cc to Mr.Moorthy, Advocate, S.R.No.23098

W.P.No.31001 of 2013

RLD(CO)
GN(06/08/2020)