



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.07.2020

DELIVERED ON : 20.08.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN
WP(MD).No.1399 of 2013

S. Aravindan (died)

Sarojini

(the petitioner is substituted for the
deceased sole petitioner

vide Court order dated 28.06.2019 made in
WMP(MD).No. 6615 of 2018 in
W.P(MD).No.1399 of 2013

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by its Special Commissioner - cum - Secretary,
Transport Department,
Fort St. George,
Chennai -9.

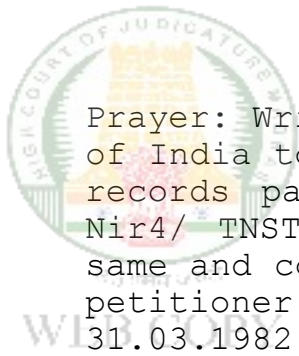
2.The Director of Pension,
Pension Pay Officer,
No.807, V-Floor,
Anna Salai,
Saidapet, Chennai.

3.The Director of Treasuries and Accounts,
Panagal Building,
Jennis Road, Saidapet,
Chennai.

4.The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli),
Tirunelveli.

5.The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli),
Nagercoil Division,
Nesamony Nagar,
Ranithottam,
Nagercoil - 629 001
Kanyakumari District.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records passed by the 5th respondent herein in Letter No. 2927 / Nir4/ TNSTC (TVL) / Nagar / 2004, dated 22.03.2012 and quash the same and consequently, direct the respondents herein to disburse the petitioner's Pensionary benefits to the petitioner with effect from 31.03.1982 with arrears and interest.

For petitioner : M/s. K. Vamanan
For R1 to R3 : Mr. S. Shanmugaselvam
Additional Government Pleader
For R4 and R5 : Mr. K. Sathyasingh
Standing Counsel

O R D E R

This Writ Petition has been filed to quash the impugned order passed by the 5th respondent herein in Letter No. 2927 / Nir4/ TNSTC (TVL) / Nagar / 2004, dated 22.03.2012 and consequently, direct the respondents herein to disburse the petitioner's Pensionary benefits to him with effect from 31.03.1982 with arrears and interest.

2. The petitioner, who is the retired employee from the Transport Corporation, seeks pension claiming benefits under Section 43(3) of the Tamil Nadu Pension Rules, 1978.

3. The service matrix of the petitioner's case are as follows:

The petitioner (Staff No.1190) E.D.P.No.5400 was appointed as Tradesman in the erstwhile Tamil Nadu State Transport Department with effect from 22.08.1972 and absorbed in the then Kattabomman Transport Corporation Limited, Tirnuelveli with effect from 01.05.1975, based on his option. Then, he was absorbed into the then M/s. Nesamony Transport Corporation Ltd., Nagercoil with effect from 01.04.1983 and retired from service on 31.12.1993. The petitioner seeks pensionary benefits under Section 43(3) of the Tamil Nadu Pension Rules, 1978.

4. The respondents filed counter. Based on the counter, the learned Standing counsel appearing for the respondent / Corporation would submit that as per G.O.Ms.No.42 Transport (RW) Department, dated 27.05.2005, the Government fixed the cut off date as 01.04.1982 in respect of the erstwhile Tamil Nadu State Transport Department Employees, who has put less than 10 years of Government Service as on their permanent absorption in STU's only for the limited purpose of assessing the requisite length of qualifying service of 10 years to earn pension.



5. On perusal of the said S.No.5(a) of the said G.O it is seen that erstwhile Tamil Nadu State Transport Department employees who were absorbed in Tamil Nadu State Transport Corporations and retired before 01.01.1988 or after 01.01.1988 but before 01.09.1998 be paid pension if they had put the qualifying service of 10 years as on 01.04.1982.

6. Thus, computing the service of the petitioner, for the purpose of pension the petitioner has to put on 9 years 5 months and 19 days of qualifying service as on 31.03.1982 and hence, as per the Rule the petitioner is not eligible to get pension. The relevant Rule 43(3) of the Tamil Nadu Pension Rules, 1978, is reads as follows:

"43)...

(3) In calculating the length of qualifying service, fraction of a year equal to (three months) and above shall be treated a completed one half year and reckoned as qualifying service."

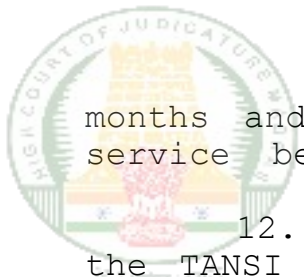
7. In view of the unequivocal terms since six months alone could be rounded off to one year, the petitioner cannot seek the benefit under the said Rule.

8. The contention of the petitioner is that he worked in the TANSI and the service rendered in the TANSI should be taken into consideration viz., 2 years 8 months and 8 days.

9. It is seen that the Tamil Nadu Small Industrial Corporation Limited, Guindy, Chennai - 32 informed that the petitioner S. Aravindan is not eligible for pension for the period of his service in TANSI as there was no pension scheme in TANSI or through EPF scheme. As per G.O.Ms.No. 1028 / TPT / dated 23.09.1985, the petitioner is not eligible for his Government service since he has put in two years 8 months and 8 days of qualifying service in Ex.TNSTD as on 30.04.1975. He has already received TNSTD service gratuity of Rs.533/- for the Government service as on 30.04.1975 vide Government Letter No.10220/TBC-2/88-1, dated 31.01.1989. Though the petitioner was initially appointed in TANSI the individual is not eligible for any pension for his period of service in TANSI as there was no pension scheme in TANSI are through Employees Provident Fund (EPF).

10. It is also seen from the counter that the petitioner had already received service gratuity of Rs.533/- for the service rendered as on 30.04.1975 vide Government Letter No.10220/TBC-2/88-1, dated 31.01.1989.

11. In view of the position that he has put on 2 years 8



months and 8 days of qualifying service in TANSI the necessary service benefits have already been disbursed to him.

12. Furthermore, the service rendered by the petitioner in the TANSI could not be taken into consideration in addition for pension since at the time of his service there was no pension scheme in TANSI. As per G.O.Ms.No.42 Transport (RW) Department, dated 27.05.2005, the petitioner is not eligible to get family pension since he had put less than 10 years of qualifying service as on 31.03.1982. Hence, this Court has no other option except to reject the case of the petitioner claiming for pension.

13. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Special Commissioner - cum - Secretary,
Transport Department, Fort St. George,
Chennai -9.

2. The Director of Pension,
Pension Pay Officer,
No.807, V-Floor, Anna Salai,
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3. The Director of Treasuries and Accounts,
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Chennai.

ORDER MADE IN
WP (MD) .No.1399 of 2013
20.08.2020

KM (20.08.2020) 4P 4C