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WP(MD).No.759 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.08.2020

DELIVERED ON : 18.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

WP(MD).No.759 of 2014

S. Rajalingam : Petitioner
Vs.

1.The Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Fort. St. George, Chennai.

2.The Managing Director,
The Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road, Division - IV,
Madurai - 625 010.

3.The General Manager,
Tamil Nadu State Transport Corporation,
Bye Pass Road, Chettinadar Pettai,
Dindigul,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the order passed by the third respondent in his proceeding No.TNSTC/DGL/PF WP.No.3858 of 2011 : 197 dated 16.05.2011 and quash the same and consequently, direct the third respondent to pay pension from the date of his retirement i.e., from 1997 onwards with all monetary benefits there from within a time limit stipulated by this Court.

For petitioner : Mr. G. Gomathi Sankar

For R2 and R3 : Mr. N. Shanmugaselvam
Additional Government Pleader

For R1 : Mr. J. Senthil Kumaraiah
Standing Counsel



ORDER

This Writ Petition has been filed to quash the impugned order passed by the third respondent in his proceeding No.TNSTC/DGL/PF WP.No.3858 of 2011: 197, dated 16.05.2011 and consequently, direct the third respondent to pay pension to the petitioner from the date of his retirement i.e., from 1997 onwards with all monetary benefits there from within a time frame to be fixed by this Court.

2. The petitioner was an employee of the TVS Southern Roadways (P) Ltd., and subsequently, he was absorbed in the Tamil Nadu State Transport Corporation and retired on 30.04.1997. Challenging the order passed by the contesting third respondent rejecting his claim for pension, he has filed the present Writ Petition before this Court.

3. The learned counsel appearing for the petitioner submitted that the petitioner was originally worked as an employee under the TVS Southern Roadways (P) Ltd., from 01.10.1956 and subsequently, he was absorbed as Tamil Nadu State Transport Corporation employee from the year 1972 and retired on 30.04.1997 as a Corporation employee. As per the G.O.Ms.Nos.42 and 408, those who are served 10 years of service in the Government Department, they are entitled to pension and hence, he seeks for grant of pension.

4. The respondents filed counter. Based on the counter, the learned Standing Counsel appearing for the respondents 1 and 2 would submit that both the G.O.Ms.Nos.42 and 408 are applicable only for Government Employees, those who are worked in the Government Transport Corporation viz., persons employed from Government Department. He further contended that two categories of people were absorbed in the Government Transport corporation viz., personal employee from Government Department and another mode is private Transport Corporation employees viz., TVS Southern Roadways employees. The above said two G.Os relied on by the petitioner only in respect of the Government Department employees and not for the second category.

5. According to him, the petitioner herein was not worked as a Government Employee not even for a single day and he retired as a Corporation employee on 30.04.1997. On that day there is no pension scheme in the Transport Corporation. The pension scheme available in the Corporation was came in to effect only in the year 1998 and hence, he is not eligible for pension. He would further submit that in the impugned order it is clearly mentioned about the 12(3) settlement, which reads as follows:

"2. Further, a pension scheme has been introduced to Transport Corporation employees based on the 12(3) settlement arrived at during 1998, and as per



TNSTC employees Pension Fund Trust Ruels the employees retired / voluntarily retired / expired / medically discharged on or after 01.09.1998 are specified in that rule. As your service had already been came to an end on 30.04.1997 i.e., before of September 1998, you are not eligible for that pension."

6. As submitted by the learned Standing counsel appearing for the respondents Corporation that there are two methods adopted viz., persons from the Government service and person from the private bus case. In respect of the person absorbed from the Government Department, the above said two G.Os. are made applicable. In respect of the persons who are absorbed from the private Transport Corporation bus, these GOs are not applicable.

7. As far as the date of absorption, it is settled by the Hon'ble Apex Court that has only on 01.04.1982. The petitioner herein was retired from service on 30.04.1997, at that time, there was no pension scheme in existence in the Transport Corporation. By way of 12(3) Settlement, pension scheme came into existence in the Transport Corporation from 01.09.1998. Hence, the persons who retired before 01.09.1998 cannot claim pension for the services rendered in the Transport Corporation. Therefore, the claim of the petitioner for pension cannot be countenanced. The similar view was taken by the brother Judges of this Court in W.P(MD).Nos.20346 of 2015, 20347 of 2015 and W.P(MD).No. 20348 of 2015, dated 20.11.2015, 20.11.2015 and 12.03.2018 respectively. Hence, the prayer sought for by the petitioner in this Writ Petition is rejected.

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

Sd/-

Assistant Registrar (CS)

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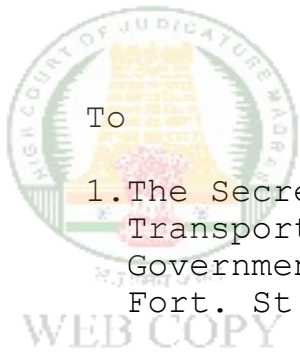
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Sub Assistant Registrar(CS)

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ORDER MADE IN
WP (MD) .No.759 of 2014
18.08.2020

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TK/SAR./26.08.2020/4P/4C