

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 16.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE P.T.ASHA

W.A.NOS.1629 & 1630 OF 2012
AND
M.P.NOS.1 & 1 OF 2012

The Government of Tamil Nadu
rep. by the Secretary to Government,
Transport Department,
Secretariat,
Chennai-600 009.

... Appellant in both the appeals

versus

1. S.Pachayappan
2. The Presiding Officer,
Principal Labour Court,
Chennai-104.

... Respondents in both the appeals

Prayer in W.A.No.1629 of 2012:

Appeal filed under Clause 15 of Letters Patent to allow the writ appeal by setting aside the order made in W.P.No.27176 of 2006 dated 12.07.2010.

W.P.No.27176 of 2006:-

To issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the order dated 18.01.2006 made in C.P.No.4 of 2003 and quash the same.

Prayer in W.A.No.1630 of 2012:

Appeal filed under Clause 15 of Letters Patent to allow the writ appeal by setting aside the order made in W.P.No.32545 of 2002 dated 09.11.2010.

W.P.No.32545 of 2002:-

To issue a Writ of Certiorari to call for the records of the 2nd Respondent relating to the order dated 06.12.2001 made in C.P.No.876 of 1997 and quash the same.

For Appellant in both cases	:	Mr.K.Magesh, Special Government Pleader
For Respondents	:	No appearance for R1 R2-Court

COMMON JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

These writ appeals have been filed questioning the correctness of the impugned orders dated 12.07.2010 and 09.11.2010 passed in Writ Petition Nos.27176 of 2006 and 32545 of 2002 in and by which the learned Single Judges, considering the fact that the first respondent has rendered more than 10 years of service and that the temporary service also to be counted for pension, dismissed the writ petitions filed by the appellant. Aggrieved thereby, these appeals have been filed.

2.Learned Special Government Pleader appearing for the appellant submitted that as per Rule 43(2) of the Tamil Nadu Pension Rules, the employee is required to put in 10 years of service to become eligible for pension and even as per rule 2(A) of the Tamil Nadu Pension Rules, the daily paid service will not be counted for pension and therefore, the first respondent is not eligible for pension. But these two provisions have been overlooked by the learned Single Judges.

3. But we are unable to find any merits on the submission made by the learned Special Government Pleader appearing for the appellant. It is evident that the first respondent was appointed as Conductor in the erstwhile Tamil Nadu State Transport Corporation on daily wage basis on 04.07.1964 and absorbed in a monthly wage pay on regular basis from 01.08.1965. It is an admitted fact that the first respondent was absorbed permanently in Pallavan Transport Corporation with effect from 01.09.1975. After reaching the superannuation, when he was denied pension, he approached the Labour Court with C.P. No.4 of 2003 claiming arrears of pension from 01.07.1997 to 31.12.2002. Accepting the case of the first respondent, the Labour Court passed an Award on 18.01.2006 granting the relief sought for after heavy contest between the parties. Challenging the same, the above writ petitions have been filed, which were dismissed eleven years ago with a finding that the first respondent was eligible to get pension while counting the temporary services. We also find no fault thereon. In this regard, it is pertinent to refer Section 43(2) of the Tamil Nadu Pension Rules as under:

'43(2) In the case of a Government Servant, retiring in accordance with the provisions of these rules after

completing qualifying service of not less than 10 years, the amount of pension shall be appropriate amount.'

4.A perusal of the above provision would show that the Government servant is eligible to get pension if he completes 10 years of service. This first respondent was working as Conductor in the erstwhile Tamil Nadu State Transport Department for the period from 05.07.1964 to 30.04.1975 and on 01.05.1975, he was absorbed as an employee in the Pallavan Transport Corporation. As he has rendered 10 years of pensionable service, he is entitled to get pension for the period worked in Tamil Nadu State Transport Department. As the learned Single Judge in W.P. No.27176 of 2006, considering the fact that the Labour Court has considered the legal position that the period of temporary service shall be counted for pension relying upon the judgment of this Court in W.P. No.19515 of 1998, which was confirmed in W.A. No.522 of 1992 and dismissed the writ petition filed by the appellant, following an another order passed by yet another learned Single Judge of this Court in W.P. No.32545 of 2002, it is not known why the appellant has come to this Court by filing these frivolous appeals. Finding no merits, both the appeals stand dismissed. Consequently, connected Miscellaneous Petitions stand closed.No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Presiding Officer,
I Additional Labour Court,
Chennai.
2. The Secretary to Government,
Transport Department,
Fort.St.George, Chennai-9.

+1cc to the Government Pleader, S.R.No.23370

W.A.Nos.1629 & 1630 of 2012
and M.P. Nos.1 & 1 of 2012

AJS(CO)
CS/23/06/2021