

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2610 of 2021
and W.M.P.No.2937 of 2021

Mr.R.Janaka Naidu

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Secretariate,
Chennai-600 009.

2.Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
12, Ramakrishna Salai,
Salem-636 007.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to sanction and pay pension to the petitioner with effect from 01/01/1988 as per G.O.Ms.No.42 Transport (RW) epartment dated 27/05/2005 and as per the provisions of the Tamil nadu pension Rules construing that the petitioner has completed the qualifying years of service 10 years by following the order pased in W.A.No.1752 and 1827 of 2009 dated 28/04/2010 and followed in issuing the G.O.(3D) No.28 Transport (RW1) Department dated 11/07/2011 and in W.P. (MD) 3517 of 2008 dated 31/03/2010 confirmed by the Division Bench in W.A.(MD)No.381 of 2011 dated 09/04/2011 and the Honourable Supreme court of India in S.L.P. (CC) No.1660 of 2012 dated 03/02/2012 and followed in issuing the G.O.(3D) No.19, Transport (RW1) Department dated 25.06.2012.

For Petitioner : Mr.V.S.Jagadeesan
For R1 : Mrs.P.Rajalakshmi, Addl. Govt. Pleader
For R2 : Mr.D.Raghu

O R D E R

The petitioner has filed this writ petition, seeking a direction to the 1st respondent to sanction and pay pension to the petitioner with effect from 01.01.1988 as per G.O.Ms.No.42

Transport (RW) Department dated 27.05.2005 and as per the provisions of the Tamil Nadu pension Rules construing that the petitioner has completed the qualifying years of service 10 years, by following the order passed in W.A.No.1752 and 1827 of 2009 dated 28.04.2010 and G.O.(3D) No.28 Transport (RW1) Department dated 11.07.2011 and in W.P.(MD) 3517 of 2008 dated 31.03.2010 confirmed by the Division Bench in W.A.(MD) No.381 of 2011 dated 09.04.2011 and the Supreme court of India in S.L.P. (CC) No.1660 of 2012 dated 03.02.2012 and G.O.(3D) No.19, Transport (RW1) Department dated 25.06.2012.

2. Mrs.P.Rajalakshmi, learned Additional Government Pleader takes notice for R1 and Mr.D.Raghu for R2. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. Though a larger relief is sought for in this Writ Petition, at the time of argument, learned counsel for the petitioner submitted that it is suffice if the representation of the petitioner dated 03.02.2020, given for consideration of qualifying 10 years service, is disposed of in a time bound manner

4. Learned Government Advocate appearing for R1 stated that if a reasonable time is granted to the 1st respondent, the representation of the petitioner will be considered and suitable orders be passed on the same.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation of the petitioner dated 03.02.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing either physically or virtually, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 03.02.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ar

To:

1.The Secretary.
State of Tamil Nadu,
Transport Department,
Secretariate,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
12, Ramakrishna Salai,
Salem-636 007.

W.P.No.2610 of 2021

RLD (CO)
KM(23/04/2021)