

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2021
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5827 of 2021
(Heard through VC)

S.Raju

.. Petitioner

-vs-

1.The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Transport Department, Secretariat,
Chennai - 600 009.

2.M/s.State Express Transport Corporation,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.

3.The Regional Provident Fund Office,
Rep. by its Commissioner,
Royapettah,
Chennai - 600 014.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to grant pension in the light of the orders of this Court in W.P.(MD) No.3838, 6501 and 6528 of 2008 dated 04.08.2010, W.A.(MD) SR.No.40406 of 2010 dated 28.01.2011, order of Hon'ble Supreme Court in SLP No.27282 of 2011 dated 07.05.2014, order of High Court Madras in W.P.(MD) No.22653 of 2017 dated 11.07.2018, W.P.(MD) No.1980 of 2017 dated 25.01.2019 and G.O.3(D) No.36 Transport (RW1) Department dated 28.07.2016 by considering his representation dated 09.05.2019.

For Petitioner : Mr.D.Soundar Raj

For Respondent-1 : Mr.J.Pothiraj
Special Government Pleader

For Respondent-2 & 3 : Mr.K.Kathiresan

O R D E R

The petitioner has come forward with this writ petition seeking a direction to the first respondent to grant pension in

the light of the orders of this Court in W.P.(MD) No.3838, 6501 and 6528 of 2008 dated 04.08.2010, W.A.(MD) SR.No.40406 of 2010 dated 28.01.2011, order of Hon'ble Supreme Court in SLP No.27282 of 2011 dated 07.05.2014, order of High Court Madras in W.P.(MD) No.22653 of 2017 dated 11.07.2018, W.P.(MD) No.1980 of 2017 dated 25.01.2019 and G.O.3(D) No.36 Transport (RW1) Department dated 28.07.2016 by considering his representation dated 09.05.2019.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice on behalf of the respondent No.1. Mr.K.Kathiresan, learned counsel takes notice on behalf of the respondent Nos.2 & 3.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that he was appointed as Clerk in the first respondent department and then transferred to erstwhile Thiruvalluvar Transport Corporation and retired from service as Tradesman on 31.05.1996 in the second respondent Corporation on attaining the age of superannuation. He made a representation on 02.12.1996 to the second respondent for payment of pension but his request was refused vide letter dated 01.01.1997 stating that the petitioner has not completed 10 years of service from 01.08.1966 to 30.04.1975. Aggrieved by the reply of the second respondent, he filed a writ petition before this Court and this Court had directed the respondent therein to consider his representation. The first respondent replied that as he had opted under OSSR Scheme, he is not eligible for pension. The Hon'ble Supreme Court in SLP (C) No.1444 to 1445 of 1999 dated 29.10.2003 has fixed cut off date as 01.04.1982 and the Government has fixed cut off date as 04.04.1982 vide its G.O.(Ms) No.42 Transport (RW1) Department dated 27.05.2006 for assessing qualifying service for pension as on their date of permanent absorption in the State Transport Corporation. According to him, he is eligible for the pension because he completed 16 years of service from 26.06.1965 to 31.03.1982. Hence, he made a representation dated 09.05.2019 to the second respondent in this regard. But the same is pending before the second respondent without any action. Hence, this petition.

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 respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents, more particularly, the first respondent herein to consider the representation submitted by the petitioner dated 09.05.2019, 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 90 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, 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 first 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 09.05.2019 and this order, to the respondents forthwith;

v) The first 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.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi

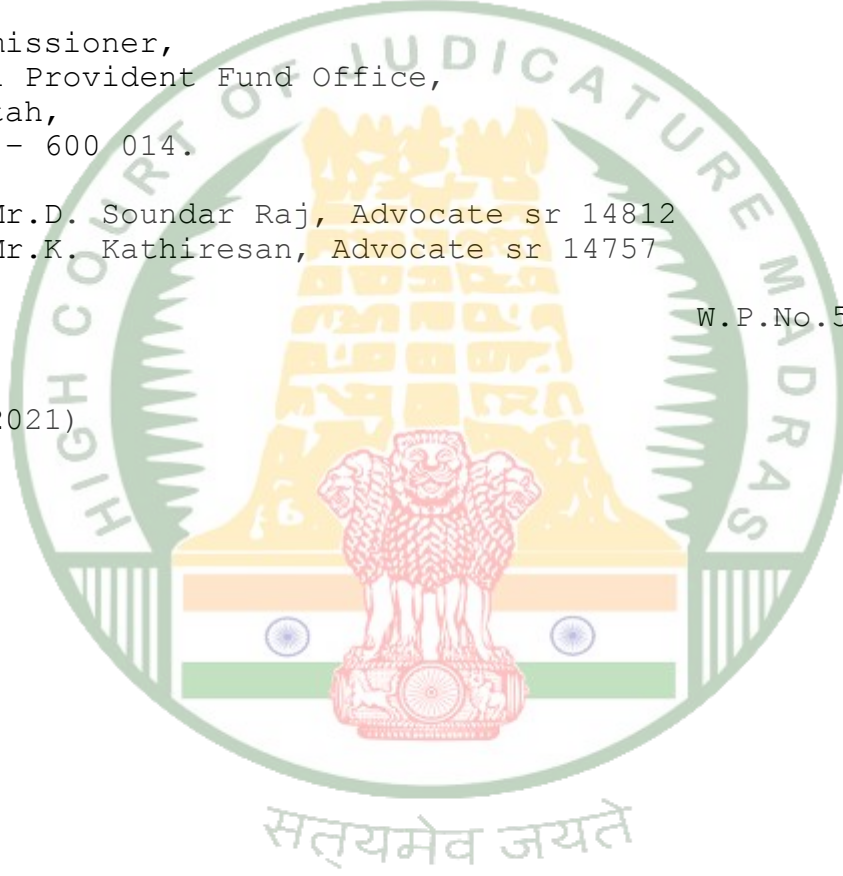
To

- 1.The Principal Secretary to Government,
State of Tamilnadu,
Transport Department, Secretariat,
Chennai - 600 009.
- 2.The Managing Director,
M/s.State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai - 600 002.
- 3.The Commissioner,
Regional Provident Fund Office,
Royapettah,
Chennai - 600 014.

+1 CC to Mr.D. Soundar Raj, Advocate sr 14812
+1 CC to Mr.K. Kathiresan, Advocate sr 14757

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RR(CO)
SP(20/05/2021)



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