



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.6129, 6133, 6134, 6142, 6143 and 6145 of 2021

(Heard through VC)

A.Alagan	... Petitioner in W.P.No.6129 of 2021
K.Devarajan	... Petitioner in W.P.No.6133 of 2021
A.Kannan	... Petitioner in W.P.No.6134 of 2021
P.Mohanasundaram	... Petitioner in W.P.No.6142 of 2021
M.Madeswaran	... Petitioner in W.P.No.6143 of 2021
K.S.Dinakaran	... Petitioner in W.P.No.6145 of 2021

-vs-

1. The Secretary to Government,
Transport Department,
Government of Tamilnadu,
Fort St. George,
Chennai - 9.
2. The Management of
State Express Transport Corporation (Tamilnadu) Ltd.,
Rep. By its Managing Director,
Pallavan Salai, Chennai -2.
... Respondents in all Wps

PRAYER in W.P.Nos.6129, 6133, 6134, 6142, 6143 and 6145 of 2021:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay the petitioner pensionary benefits for the service rendered by him as erstwhile employee in the 1st respondent Transport Department from 16.04.66 to 31.03.1982, 22.05.67 to 31.03.1982, 21.09.67 to 31.03.1982, 30.01.69 to 31.03.1982, 05.04.1968 to 31.03.1982, 30.01.69 to 31.03.1982 respectively and accordingly to pay him monthly pension w.e.f 01.01.1988, with arrears and other consequential benefits, together with interest at the rate of 12% per annum.

For Petitioners
in all W.Ps : Mr.V.Ajoy Khose



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For Respondents
in all W.Ps : Mr.P.Karthikeyan,
Additional Government Pleader-R1
Mr.K.Kathiresan (for R2)

COMMON ORDER

As the issue involved in the above Writ Petitions is one and the same, cases are taken up for disposal by a common order.

2. Mr.P.Karthikeyan, learned Additional Government Pleader takes notice for 1st respondent and Mr.K.Kathiresan, learned Standing Counsel takes notice for R2.

3. The Writ petitions are filed, seeking a direction to the respondents to pay the pensionary benefits for the service rendered by them as erstwhile employee in the 1st respondent Transport Department and consequently to pay them monthly pension w.e.f 01.01.1988, with arrears and other consequential benefits, together with interest at the rate of 12% per annum.

4. The learned counsel for the petitioners submitted that as the petitioners are working in the 1st respondent Transport Corporation since 1966, their services should be treated to have rendered more than 10 years of service in the 1st respondent , Transport Corporation. Therefore, according to the petitioners, they are entitled to monthly pension under Tamilnadu Pension Rules, 1978. As the petitioners placed under the Operational Subordinate Service Rules, 1960 earlier, they were not given the above option for pension on or before 30.06.1974 and hence, the petitioners were deprived for grant of pension. In this connection, the petitioners made representations before the respondents. As there was no reply on the representation, the petitioners are before this Court by filing the present Writ Petition with the aforesaid relief.

5. The learned counsel for the petitioners also relied upon the following Judgments of this Court as well as the Hon'ble Supreme Court in support of their case for grant of pensionary benefits:

- i. W.P.(MD) No.3838 etc., of 2008 batch case, dated 04.08.2010,
- ii. MP.(MD).No.1 of 2010 in WA (MD) No.SR40406 of 2010, dated 28.01.2011
- iii. W.P.(MD).No.22653 of 2017, dated 11.07.2018
- iv. Petitions(s) for Special Leave to Appeal (Civil) No(S). 27285 of 2011 dated 07.05.2014



6. The learned Additional Government Pleader submitted that if the principle laid by this Court as well as by the Hon'ble Supreme Court in the above cases cited supra, is applicable to the present case on hand, the request of the petitioners would be considered on merits.

7. Recording the submission of the learned Additional Government Pleader and taking into account the fact that the petitioner's representation is already pending with the respondents, the Writ Petitions are disposed of with the following directions:

i) if the case of the petitioners is applicable to the principle laid down by this Court as well as by the Hon'ble Supreme Court referred supra, the respondents are directed to consider the representation preferred by the petitioners dated 18.11.2019, 23.09.2019, 18.11.2019, 23.09.2019, 23.09.2019, 23.09.2019, respectively, in terms of those Judgments cited supra, 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 petitioners are unable to appear for personal hearing, the petitioners are 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 petitioners fail to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioners, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioners;

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 18.11.2019, 23.09.2019, 18.11.2019, 23.09.2019, 23.09.2019, 23.09.2019, respectively, and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioners 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 petitioners to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioners, 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 petitioners, later on, will not take a plea that the petitioner is not aware of the order. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To

1. The Secretary to Government,
Transport Department,
Government of Tamilnadu,
Fort St. George,
Chennai - 9.
2. The Managing Director,
Management of State Express Transport Corporation
(Tamilnadu) Ltd.,
Pallavan Salai, Chennai -2.

+6cc to Mr.V.Ajoy Khose, Advocate, S.R.No.15540

+3cc to Mr.K.Kathiresan, Advocate, S.R.No.15530

+1cc to the Government Pleader, S.R.No.15876

W.P.Nos.6129, 6133, 6134, 6142,
6143 and 6145 of 2021

JP(CO)
KM(28/04/2021)