

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5388 of 2016

V.Dhandapani

... Petitioner

Vs

- 1.The Secretary to Government,
Transport Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Vazhuthareddy, Villupuram - 605 602.
- 3.The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Kancheepuram Region, Kancheepuram.
- 4.The Administrator,
Tamil Nadu State Transport Corporation
Corporation EPF Trust,
Chennai - 600 002.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to calculate the pension of the petitioner as per Rule 2(P) (iii) of TNSTC EPF Rules treating 01.04.1985 as the day of reckoning and provide the petitioner full pension and all the attendant benefits.

For Petitioner : Mr.M.Selvam
For R1 : Mr.R.S.Selvam, GA
For R2 to R4 : Mr.C.S.K.Sathish

ORDER

The relief sought for in this writ petition is to direct the respondents to calculate the pension payable to the petitioner as per Rule 2(P) (iii) of TNSTC EPF Rules treating 01.04.1985 as the day of reckoning and pay full pension with all the attendant benefits.

2. According to the petitioner, he joined as Junior Assistant (Apprentice) on 08.06.1981 in the erstwhile Thiruvallur Transport Corporation Limited and he worked with the said Corporation on consolidated pay from 09.06.1982 to 15.05.1985. Subsequently, he was transferred to Deeran Chinnamalai Transport Corporation Ltd, Trichy, on 20.03.1985 and worked as Junior Assistant trainee for one year and his services were regularised on 20.03.1986 and was posted as Junior Assistant. Thereafter, he worked with the third respondent Corporation and ultimately, retired from service on 31.10.2014 as Superintendent, on reaching the age of superannuation. It is the further case of the petitioner that as per the provisions of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust, the actual service is to be reckoned from the date of regular employment or becoming the member of the Employees Provident Fund in the Union for the calculation of pensionable service. According to the same, as the petitioner became a member of the fourth respondent trust on 01.04.1985, his pensionable service is to be reckoned from 01.04.1985 and he is eligible for full pension. On the other hand, the respondents reckoned the petitioner's service as 29 years and are giving less amount as pension to him. In this regard, the petitioner submitted a representation to the respondents requesting to calculate the pension payable to him, as per 2(P)(iii) of TNSTC EPF Rules, and pay full pension. Since there was no response on the same, he has come up with this writ petition for the aforesaid relief.

3. The learned counsel for the Petitioner submitted that the issue involved herein has already been considered and decided by this Court in favour of the petitioner therein, vide judgment dated 25.08.2010, passed in W.A.(MD)No.387 of 2010, the relevant passage of which, are usefully extracted hereunder:

"3.A learned Single Judge of this Court, by order dated 26.10.2009, placing reliance upon the definition of Rule 2(q)(iii) of the Tamilnadu State Transport Corporations Employees Pension Rules, (hereinafter referred to as "the Rules") had allowed the said writ petition. The said order has given a cause to the present Writ Appeal by the Transport Corporation.

4. We have heard the learned respective counsel appearing for the appellants and respondent.

5. For calculating the period of service for entitlement of pension, Rule 2(q)(iii) of the

Rules would be relevant which is as follows:-

"Definition 2(p) The Actual Service as defined below shall be reckoned for calculating pensionable service.

(iii) In respect of all other employees, the date of regular employment or becoming the member of the Employees' Provident Fund in the STU will be reckoned for the calculation of pensionable service".

6. According to the said Rule, in respect of all other employees, the date of regular employment or becoming a member of Employees' Provident Fund Scheme in STU will be reckoned for calculation of pensionable service. Though as per the said Rule, the minimum period of ten years is mentioned as Actual Service, in the light of the above provision, the actual period should be calculated from the date when he became a member to the Employees Provident Fund Scheme, i.e. from 17.7.96. If the period from 17.7.96 till 1.5.97 is also taken into consideration, the respondent would have more than ten years of pensionable service. In such event, the respondent would be entitled to pension and the order of the Learned Judge requires no interference. The provision of Section 2(p)(iii) of the Rule is also perused and the said provision would certainly make the respondent entitled for pension by taking into consideration of the period from when he became the member of Employees' Provident Fund Scheme i.e. from 17.7.96. Hence, we find no reason to interfere with the order of the learned Single Judge."

Thus, the learned counsel submitted that the claim of the petitioner may be directed to be considered by the respondents, in the light of the aforesaid judgment rendered by the Division Bench of this Court, for which, there is no serious objection on the side of the respondents.

4. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid decision, this Court directs the respondent authorities to consider the claim of the petitioner and pass appropriate orders, on merits and in accordance with law and also in the light of the judgment dated

25.08.2010 passed by this Court in W.A.(MD)No.387 of 2010. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5.Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.M.Selvan, Advocate, S.R.No.11194
+1cc to the Government Pleader, S.R.No. 11563

W.P.No.5388 of 2016

RGN(CO)
GN(02/07/2021)