

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26321 of 2018

T.Selvaraj

...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,
Villupuram Region, Villupuram.
4. The General Manager,
Dheeran Chinnamalai Transport Corporation,
Trichy.
5. The Administrator,
Tamil Nadu State Transport Corporation,
Corporation EPF Trust, Chennai - 600 002. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to calculate the pension of the petitioner as per Rule 2(P)(iii) of TNSTC EPF Rules treating 01.10.1986 as the day of reckoning and provide the petitioner full pension and all attendant benefits.

For Petitioner : Mr.M.Selvam

For Respondents: Mr.S.Thangavel

Special Government Pleader - R1

Mr.C.S.K.Sathish - R2 to R4

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 01.10.1986 as

the day of reckoning and pay full pension with all the attendant benefits.

2. According to the petitioner, he joined as Junior Assistant Trainee on 26.09.1986 in the erstwhile Dheeran Chinnamalai Transport Corporation Limited and he worked with the said Corporation on consolidated pay from 01.10.1986 to 25.09.1987. Subsequently, his service was regularised on 26.09.1987 and was posted as Junior Assistant in the Head Office of Dheeran Chinnamalai Transport Corporation Ltd at Trichy. Thereafter, he worked with the third respondent Corporation and ultimately, retired from service on 31.01.2017 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 01.10.1986, his pensionable service is to be reckoned from 01.10.1986 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 approached the respondents and requested to calculate the pension payable to him as per 2(P)(iii) of TNSTC EPF Rules and pay full pension, but the same was not considered. Hence, this writ petition.

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, is 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 Tamil Nadu 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 services of 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 petitioner to submit a fresh representation to the respondents along with all relevant documents within a period of two weeks from the date of receipt of a copy of this Order and on such submission, the respondents shall 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, within a period of eight (8) weeks thereafter.

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

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

vrc

To

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 5. The Administrator, Tamil Nadu State Transport Corporation,
Corporation EPF Trust, Chennai - 600 002.
- +1 CC to Mr.M. Selvam, Advocate sr 19085.
+1 CC to The Government Pleader sr 19364.

सत्यमेव जयते

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SS (CO)
SP (08/07/2021)

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