



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED:21.01.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

**W.P. (MD)No.11714 of 2011**

**and**

**M.P (MD)No.1 of 2011**

WEB COPY

T.Mahalingam

... Petitioner

Vs.

1.The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Kumbakonam.

2.The General Manager,  
TNSTC ltd., Kumbakonam.

3.The Administrator,  
Tamil Nadu State Transport Corporation Ltd.,  
Pension Fund Trust,  
Thiruvalluvar Illam,  
Chennai-2.

... Respondents

(R3 is impleaded vide Court Order dated  
19.02.2020 in W.M.P(MD)No.2530 of 2020)

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in impugned order in Lr.No.TNSTC/Kum/PF3/Spl/2010, dated 21.05.2010 passed by the 2<sup>nd</sup> respondent, quash the same and direct the respondents to grant pension to the petitioner as done to the similarly placed employees by the respondent from 25.06.1979 to 27.09.1998.

For Petitioner : Mr.S.Vellaichamy

For R1 & R2 : Mr.D.Sivaraman

Standing Counsel

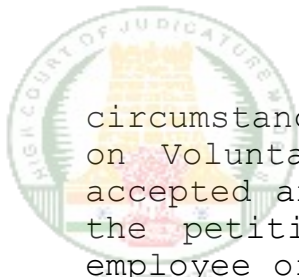
For R3 : Mr.A.Swaminathan

Standing Counsel(No appearance)

**O R D E R**

This writ petition is filed by the petitioner, to call for the records in the impugned order in Lr.No.TNSTC/Kum/PF3/Spl/2010, dated 21.05.2010 passed by the second respondent and quash the same and consequently, direct the respondents to grant pension to the petitioner as done to the similarly placed employees by the respondent from 25.06.1979 to 27.09.1998.

2.The case of the petitioner is that he joined the service as Driver in the respondent Corporation on 25.06.1979 and after completion of 10 years of service, Selection Grade was given to him and he continued his service till 27.09.1998. Due to his family



circumstances and also due to his health condition, he decided to go on Voluntary Retirement and submitted an application, which was accepted and allowed him to retire on 27.09.1998. After retirement, the petitioner was not sanctioned pension as applicable to the employee of the Corporation. In this regard, the petitioner has made several representations to the respondents and so far, no action has been taken. Therefore, the petitioner sent a representation to the Pension Fund Trust of Corporation Employees. Pursuant to which, the Trust sent a recommendation letter to the first respondent to look into the petitioner's case and to take necessary action. Thereafter, the second respondent has rejected the petitioner's request on the ground that he has not completed 20 years of service and hence, he is not eligible for pension. Challenging the said rejection order, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that though the petitioner has entered into the service in the year 1979 and Selection Grade was given in the year 1998, due to his health condition, the petitioner has voluntarily retired from service in the year 1998. Further, the learned counsel submitted that the very same issue came up for consideration before the Hon'ble Apex Court in **S.L.P.No.16446 of 2013, dated 08.05.2013** between **M.D., TNSTC(Madurai) Ltd., v. M.Natarajan and another**, wherein the Hon'ble Apex Court has held that such an employee, who was allowed to voluntarily retire under the then prevailing scheme on completion of 20 years of service, even though he had not completed the age of 50 years, was entitled to the pensionary benefits and other retiral benefits as per the pension scheme. The very same issue was also considered by this Court, which was reported in **2015-1-LLJ-336(Mad) [Tamil Nadu State Transport Corporation Employees' Pension Trust, Rep by its Administrator, Chennai-2, V. State Transport and Transport Corporation Retired Employees Welfare Association, Re by its Secretary, Chennai-2 and other]**. In view of the above, the learned counsel prays for allowing the present Writ Petition.

4.Per contra, the learned Standing Counsel appearing for the first and the second respondents submitted that the decision relied upon by the petitioner is not applicable in the present case, wherein, the petitioner therein, who has completed 20 years of service and not completed the age of 50 years, is entitled to get pensionary benefits. Further, the Standing Counsel submitted that as per the Rule of 16(a)(i) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules, for normal retirement employee attaining the age of 58 and having minimum service of 10 years is enough for getting pension. In this case, the petitioner while on Voluntary Retirement, and not completing 20 years of service, as per the Pension Trust Rule, is not eligible for pension and hence, he prays for dismissal of this Writ Petition.



5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the second respondent and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service on 25.06.1979 and he voluntarily retired from service on 24.09.1998 and he has not completed 20 years of service and the petitioner was not sanctioned pension. In order to resolve the issue, the relevant Rule is as follows:

**"16. MONTHLY MEMBERS' S PENSION**

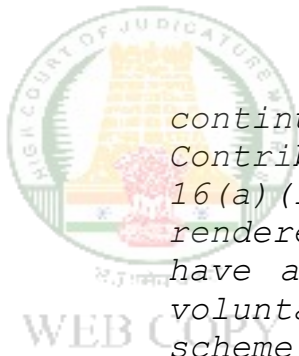
a) A member shall be entitled to-

i) Superannuation Pension, if he has rendered a qualifying service of 10 years or more and retires on attaining the age of 58 years or the retirement age that may be fixed by the employer.

ii) Voluntary Retirement Pension. If he has rendered a qualifying service of 20 years or more and attained the age of 50 years."

7. On a perusal of the aforesaid Rule 16(a)(i) of the Pension Trust Rule, it is seen that if the employee has rendered a qualifying service of 10 years or more and attained the age of 50 years, is entitled to the pensionary benefits and other retiral benefits as per the Pension Scheme. Further, the Hon'ble Apex Court has rendered the decision reported in **2015-1-LLJ-336 (Mad) (cited supra)**, wherein, in paragraph No.6, it is stated as follows:

"6. The persons regarding whom pensionary benefits had been sought for in W.P.No.276/2006 and the petitioner in W.P.No.5907/2006, were the persons who retired voluntarily under a Scheme called Special Scheme for Voluntary Retirement of Employees of Transport Corporation, which was brought into effect on and from 03.11.1987. It contemplated that the employee preferring to retire under the scheme, should satisfy two conditions viz., that he had completed 50 years of age and had put in not less than 20 years of service. By a subsequent amendment to the Scheme by letter No.11019/C2/88-13 dated 16.11.1990 issued by the Secretary to Government, Transport Department, the condition was relaxed by modifying the conditions. As per the modified scheme, those who had completed 50 years of age and put in a minimum qualifying service of 15 years or those who had put in 20 years of continuous service without reference to his age, were made eligible to avail the benefit of the Voluntary Retirement Scheme. Thereafter a new pension scheme came to be framed by virtue of a settlement under Section 12 (3) of the Industrial Disputes Act, 1947 dated 13.02.1999. As per the new pension scheme, those who were on rolls of State Transport Undertakings as on 31.08.1998, could have exercised the option of joining the new pension scheme or of



continuing to be a member in the existing employees Contributory Pension Fund Scheme. It also provided in clause 16(a)(ii) and those who voluntarily retire, should have rendered a qualifying service of 20 years or more and should have attained the age of 50 years as on the date of such voluntary retirement to get the benefit of the pension scheme."

8.On a perusal of the aforesaid decision, it is made clear that the employee therein completed 20 years of service. The petitioner herein has not even completed 20 years of service on the date of his voluntary retirement. Further, a perusal of the Scheme reveals that the Pension Scheme introduced to the employees, who were all in roll as on 01.09.1998, whereas, the petitioner has submitted his voluntary retirement application on 24.04.1998 and the same was accepted by the authorities on 24.09.1998. In this background, when there is no Scheme existing at the relevant point of time, the petitioner is not entitled for new pension. Hence, the prayer sought for in this writ petition cannot be granted.

9.Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

+1 CC to M/s.M.V.VENKATASESHAN, Advocate ( SR-1789[F] dated 22/01/2021 )

+1 CC to M/s.D.SIVARAMAN, Advocate ( SR-1901[F] dated 22/01/2021 )

W.P. (MD)No.11714 of 2011  
21.01.2021

SJ(CO)

KB(16.03.2021) 4P 3C