



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

DATED: 10.03.2021

CORAM:

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

WEB COPY

**W.P. (MD)Nos.3980 to 3990 of 2011**

|                |                                          |
|----------------|------------------------------------------|
| A.Syed         | ... Petitioner in WP (MD)No.3980 of 2011 |
| M.Varadharajan | ... Petitioner in WP (MD)No.3981 of 2011 |
| S.Ramaiah      | ... Petitioner in WP (MD)No.3982 of 2011 |
| A.Badrul Islam | ... Petitioner in WP (MD)No.3983 of 2011 |
| M.Subbiah      | ... Petitioner in WP (MD)No.3984 of 2011 |
| P.Balakrishnan | ... Petitioner in WP (MD)No.3985 of 2011 |
| K.Alwar        | ... Petitioner in WP (MD)No.3986 of 2011 |
| R.Vasudevan    | ... Petitioner in WP (MD)No.3987 of 2011 |
| S.Palchami     | ... Petitioner in WP (MD)No.3988 of 2011 |
| P.Balakrishnan | ... Petitioner in WP (MD)No.3989 of 2011 |
| A.Viswanathan  | ... Petitioner in WP (MD)No.3990 of 2011 |

vs

- 1.The Secretary to the Government of Tamilnadu,  
Transport Department, Chennai.
- 2.The Managing Director,  
State Express Transport Corporation Limited, Pallavan Salai,  
Chennai-2.
- 3.The Branch Manager,  
State Express Transport Corporation Limited,  
Madurai. ... Respondents in WP (MD)Nos.3980 to 3990 of 2011

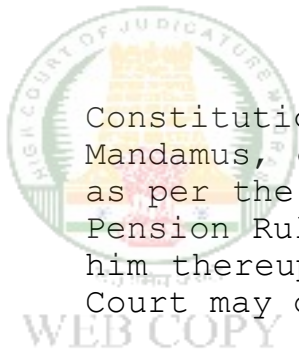
Prayer in WP (MD)No.3980 of 2011: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules, 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP (MD). 3981/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the G.O.212 dated 28.03.74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP (MD). 3982/ 2011 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the



Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon and pass such further other orders as this Honourable Court may deem fit and proper and thus render justice.

Prayer in WP(MD). 3983/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the G.O.212 dated 28.03.74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP(MD). 3984/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon and pass such further other orders as this Honourable Court may deem fit and proper and thus render justice.

Prayer in WP(MD). 3985/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the G.O.212 dated 28.03.74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP(MD). 3986/ 2011 :

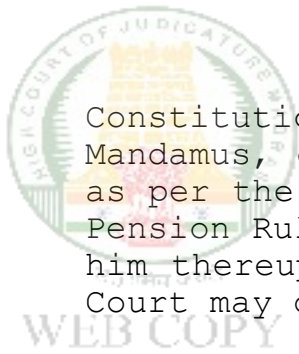
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon and pass such further other orders as this Honourable Court may deem fit and proper and thus render justice.

Prayer in WP(MD). 3987/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the G.O.212 dated 28.03.74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP(MD). 3988/ 2011 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the



Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon and pass such further other orders as this Honourable Court may deem fit and proper and thus render justice.

Prayer in WP(MD). 3989/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the G.O.212 dated 28.03.74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon.

Prayer in WP(MD). 3990/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to grant the petitioner pension as per the GO 212 dated 28/03/74 issued under the Madras Liberalised Pension Rules 1960 with arrears by giving up the option exercised by him thereupon and pass such further other orders as this Honourable Court may deem fit and proper and thus render justice.

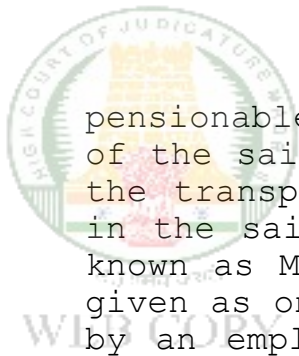
|                 |   |                                                                           |
|-----------------|---|---------------------------------------------------------------------------|
| For Petitioners | : | Mr.R.Venkateswaran<br>in all W.Ps                                         |
| For Respondents | : | Mr.K.Sathya Singh<br>Additional Government Pleader<br>for R.1 in all W.Ps |
|                 | : | Mr.S.Baskaran<br>Standing Counsel for R.2 and R.3<br>in all W.Ps          |

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**COMMON ORDER**

Since the issues arise in all these petitions are one and the same, all the writ petitions are taken up together and disposed of by this Common order.

2. The case of the petitioners is that the petitioners were appointed in the erstwhile Transport Corporation and while they were working, the first respondent extended the pension benefits through G.O.Ms.No.212, dated 28.03.1974, by invoking Madras Liberalized Pension Rules 1960 (in short MLPR) to the transport employees of certain categories such as Driver, Conductor, Technician etc, since they were covered by non-pensionable scheme by virtue of a special Rule viz., Tamil Nadu State Transport Department Operational Services Employees (Retiring Invalid and Compassionate gratuities (Non-



pensionable establishment) Rule (in short known as OSSR). By virtue of the said G.O.Ms.No.212, dated 28.03.1974, an option was given to the transport employees to express their desire either to continue in the said existing Rule known as OSSR or to come under new rule known as MLPR. In order to exercise the option, a cut off date was given as on or before 30.06.1974 and if there is no option exercised by an employee within the cut off date, he will be automatically brought under MLPR. Some of the employees gave their option before the cut off date and some of them gave their option after the cut off date. Accordingly, the petitioners' names were entered in the old OSSR scheme, and thereby they are not able to draw any pension. Aggrieved by the same, the present writ petitions are filed by the petitioners.

3. Learned Counsel appearing for the petitioners would submit that most of the employees were not aware of the benefit of G.O.Ms.No. G.O.Ms.No.212, dated 28.03.1974, since they are illiterate and the respondents authorities forced the employees to exercise the option before the cut off date, which was last date for submitting the option. Further, the employees had not completed 10 years of service on the date of cut off date ie., 30.06.1974 and they were asked to exercise option is invalid as ten years of service in the Government department is necessary for eligibility to get the pension and its benefits made available by the said Government Order issued under the Madras Liberalised Pension Rules.

4. It is further submitted by the learned Counsel for the petitioners that the similarly placed persons filed writ petitions before this Court and this Court granted benefit to them and in order to avail the said benefit, the petitioners made representation under the Right to Information Act to furnish the original option exercised by them and it was furnished only in Tamil, whereas they submitted in English. The learned Counsel would further submit that the petitioners exercised their option without knowing the consequences and subsequently, there are several litigations filed and all those litigations were ended in favour of the employees and hence, the learned Counsel for the petitioners would submit that this Court may issue appropriate directions to the respondents to extend the benefits of G.O.Ms.No.212 dated. 28.03.1974 in favour of the petitioners to enable them to get monthly pension.

5. The learned Counsel appearing for the respondents would submit that the petitioners were appointed as drivers and retired as driving inspectors. As per G.O.Ms.No.212, Transport Department, dated 28.03.1974, the Transport employees were called on to exercise their option either to come under MLPR (Madras Liberalised Pension Rules) 1960 for pension or settlement of gratuity under OSSR with double share of PF amount, forging pensioning benefits. The last date for exercising the option was extended upto 31.12.1974 and such of those employees, who did not opt their willingness would have come under the MLPR scheme.



6. It is further submitted by the learned Counsel appearing for the respondents that all facts of pension scheme knowing well, the petitioners had given their consent letter with signature for the settlement under OSSR and they were sanctioned OSSR gratuity as noted against each with PF double share. It has also been noted that the petitioners have never denied the payment of gratuity amount settled under OSSR and PF double share. Hence, it is very clear that the claim now preferred by the petitioners is only after thought. Therefore, the learned Counsel appearing for the respondents would pray for dismissal of these writ petitions.

7. Heard the learned Counsel appearing for the petitioners and the learned Counsel appearing for the respondents and perused the materials placed on record.

8. On a perusal of the counter affidavit it would reveal that the petitioners were initially appointed as drivers and thereafter, they retired from service. While they were in service, they opted to remain under old scheme ie., OSSR scheme, as per G.O.Ms.No.212 dated. 28.03.1974. Further, it would reveal that as per the said Government Order, if a person opted to remain in the old scheme or to continue in the new scheme, as per the option, the pension will be granted. It appears that if a person did not exercise the option, they would automatically deem to have come under the new scheme. All these writ petitioners have already opted the old Scheme ie., OSSR scheme and they were paid with the benefits including the gratuity and provident fund benefit as per OSSR scheme before 1988 itself and having received the entire benefits as per the old scheme, filing of the writ petitions after the lapse of 23 years seeking the above said prayer cannot be granted. Once settled things cannot be unsettled after a long period of time.

9. The very same issue came up for consideration before this Court in W.P.(MD)NO.11956 of 2010 and this Court, vide order dated 23.10.2019, held as follows:

*"17.In this case, the option form itself is produced before this Court and the contention of the respondents that the option was in fact received and accepted is supported by endorsements in the service book. Hence, the respondents have acted upon on the basis of option. Any irregularity in acceptance of such option cannot be permitted to be raised at this length of time to the disadvantage of the respondents. It is a fit case, where, the Writ Petition can be dismissed on the ground of delay and laches. Accordingly, this Writ Petition is dismissed. No costs.*

10. In view of the above reasons and also considering the above said decision, all the writ petitions are misconceived and they are



liable to be dismissed on the ground of delay and latches also. Accordingly, all the writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar

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/ /2021

Sub Assistant Registrar(CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Secretary to the - Government of Tamilnadu, Transport  
Department, Chennai.

**W.P. (MD)Nos.3980 to 3990 of 2011**  
**10.03.2021**

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