



WEB COPY

W.P.No. 1054 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 1054 of 2019
and
W.M.P.No. 1181 of 2019

A. Murugan

... Petitioner

Vs.

1. The Chief Education Officer,
Villupuram District,
Villupuram.

2. The Managing Director,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.
Vazhuthareddy Post,
Salamedu,
Villupuram.

3. The Public Information Officer,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
Vazhuthareddy Post,
Salamedu,
Villupuram.

4. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai – 600 002.

... Respondents



Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling the record of the impugned communication was passed by the third respondent dated 02.08.2010 in Letter No. 10667-1224/PIO/TNSTC(V)/2009 and to quash the same and consequently direct the respondents either to pay the employer contribution directly to the petitioner for the services rendered from 27.09.1998 till the date of resignation 31.12.2008 or to send the contribution sum to the first respondent enabling the petitioner to draw pension or any other such benefits by the services rendered earlier.

For Petitioner	: Mr. P. Paramasiva Doss
For Respondents	: Mrs. S. Mythreye Chandru Special Government Pleader for R1 Mr. A. Aswin for R2 and R3 Mr. C.S.K. Sathish for R4

ORDER

The order of rejection dated 02.08.2010, rejecting the claim of the writ petitioner to deposit his PF Contribution to the new employer i.e. Education Department, is under challenge in the present writ petition.

2. The petitioner was initially appointed as Conductor in the Tamil Nadu State Transport Corporation (Villpuram). When he was serving as Conductor in the Transport Corporation, he participated in the process of selection for appointment to the post of BT Assistant in Tamil Nadu



Educational Services. The petitioner was selected and subsequently, he submitted a letter of resignation to the competent authorities of the transport corporation, which was accepted. The letter submitted by the writ petitioner on 01.01.2009, reveals that he had informed the authorities of the transport corporation that he was selected as BT Assistant and for the purpose of joining in the Education Department of Government of Tamil Nadu, he submitted a letter of resignation. Such letter of resignation, without any condition, was accepted by the General Manager of Tamil Nadu Transport Corporation in proceedings dated 19.01.2009. Accordingly, the petitioner joined as BT Assistant in Tamilnadu Educational Services.

3. The grievance of the writ petitioner is that the PF Contribution of the employer mainly the transport corporation was not deposited with the Education Department enabling him to get the benefits along with his contribution on his retirement from the Education Department.

4. The learned counsel for the transport corporation made a submission that the contribution of the petitioner has already been paid to him on 10.08.2009. The employer contribution as per the statute alone is to be deposited with the Education Department of the Government of India. In



this regard, the learned counsel for the petitioner relied on Rule 16 (e) proviso clause of the Tamilnadu State Transport Corporation Employees' Pension Fund Rules. As per the above clause, *resignation from service or post entails forfeiture of past services. Provided that a resignation shall not entail forfeiture of past service, if it has been submitted to take up with proper permission, another appointment, under Government Department/State Public Sector Undertaking/Board. In such case, the pensionary benefits shall be transferred to the new employer's pension fund/EP scheme 1995, as the case may be, and such benefits shall not be directly paid to the individual.*

5. Since the petitioner's contribution was already disbursed by the transport corporation in favour of the writ petitioner, the employer contribution is to be deposited with the Education Department enabling the petitioner to get the benefits on his retirement.

6. It is not in dispute that the petitioner joined in service after 01.03.2004 and falling under the new pension scheme i.e. Contributory pension scheme. Thus, the petitioner is entitled to avail benefits under the new pension scheme i.e. Contributory pension scheme. However, the



employer contribution in this regard is to be deposited with the Education Department, in the present case by the Transport Corporation, Villupuram Limited. As far as Education Department is concerned, the petitioner would fall under the contributory pension scheme i.e. New pension scheme. Therefore, the petitioner at later point of time cannot claim the benefits under the old pension scheme i.e. The Tamil Nadu Pension Rules, 1978.

7. In view of the facts and circumstances of the case, the order impugned passed by the third respondent in letter No. 10667-1224/PIO/TNSTC(V)/2009, dated 02.08.2010 is quashed. In this regard, the petitioner shall furnish the CPS Code Number to the second respondent and on receipt of the said CPS Code Number, the second respondent is directed to deposit the employer contribution to the first respondent, without any further delay.

8. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

mrn
Index : Yes / No
Speaking order / Non-Speaking order



To

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S.M.SUBRAMANIAM, J.

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