



W.P.No.31032 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31032 of 2019

G.Sundaramoorthy

... Petitioner

-Vs-

1. Managing Director
Metropolitan Transport Corporation,
Pallavan Salai, Chennai
2. The Senior Deputy Manager (HR)
Metropolitan Transport Corporation Ltd.
Pallavan Salai, Chennai 2.

3. Tamilnadu State Transport Corporations
Employees' Pension Trust,Rep. by its Administrator
Thiruvalluvar Illam, Pallavan Salai, Chennai 2. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the respondents to pay the petitioner the employees contribution of Provident Fund, Commuted Value of pension and Monthly Pension under the TNSTCE Pension Scheme 1998, by counting his entire service from April 2000 to 31.01.2017 and as revised from time to time, with arrears and other consequential benefits, together with interest at the rate of 12 percent per annum and within a specified time as may be fixed by this Honble Court, Award costs and thus render justice.



W.P.No.31032 of 2019

For Petitioner : Mrs.V.Porkodi for
Mr.R.Krishnaswamy

For Respondents : Mr.R.Balaji [for R1 and R2]
: Mr.C.S.K.Sathish [for R3]

ORDER

The relief sought in the present writ petition is to direct the respondents to pay the petitioner, the employees contribution of Provident Fund, commuted value of Pension and Monthly Pension under the TNSTCE Pension Scheme 1998, by counting his entire service from April 2000 to 31.01.2017 and as revised from time to time, with arrears and other consequential benefits, together with interest at the rate of 12 percent per annum.

2. The petitioner served as a Driver in the Metropolitan Transport Corporation Chennai and retired from service on 31.01.2017. The grievance of the writ petitioner is that the services rendered by him on temporary basis as a daily wage employee, from April 2000 to 01.09.2005 had not been taken into consideration as qualifying the services for grant of pensionary benefits. The petitioner submitted several representations which were not considered and thus, the petitioner has chosen to file the present writ petition.



W.P.No.31032 of 2019

WEB COPY

3. The learned counsel for the petitioner mainly contended that daily wage services have to be taken into consideration for reckoning the qualifying services. The respondents have failed to do so and thus, the petitioner has submitted a representation and thereafter, filed the present writ petition.

4. The learned counsel for the respondents objected to the said contention by stating that the petitioner was regularised in the sanctioned post with effect from 01.09.2005 and therefore, he falls under the New Pension Scheme i.e., Contributory Pension Scheme. Thus, the past services cannot be taken into consideration under the old pension rules. That apart, the old pension scheme itself was not applicable to the petitioner and therefore, the petitioner is not eligible for counting his services, since his services were regularised in the year 2005 ie., after the cut-off date of 01.04.2003 for the old pension scheme.

5. That apart, the petitioner was a workman and his service conditions are governed under the settlement. Such disputed facts cannot be adjudicated in writ proceedings. Prima facie the fact remains that the



W.P.No.31032 of 2019

writ petitioner was brought under the regular establishment and his services were regularised in the sanctioned post with effect from 2005, after 01.04.2003, when the New Pension Scheme came into force and the Petitioner is falling under the Contributory Pension Scheme. Thus, he is eligible for the benefits under the new pension scheme. If at all, any other grievance exists or a dispute prevails, it is for the petitioner to approach the Labour Court with reference to the settlement.

6. In the event of approaching the Labour Court, the Labour Court shall consider the period during which the writ petition was pending before this Court for condoning the delay if any.

7. With the above direction, the Writ petition stands **disposed of**.
However, there shall be no order as to costs.

01.12.2022

Index : Yes
Speaking order
sha



WEB COPY



W.P.No.31032 of 2019

To

1. Managing Director
Metropolitan Transport Corporation,
Pallavan Salai, Chennai
2. The Senior Deputy Manager (HR)
Metropolitan Transport Corporation Ltd.
Pallavan Salai, Chennai 2.
3. Tamilnadu State Transport Corporations
Employees' Pension Trust,
Rep. by its Administrator
Thiruvalluvar Illam
Pallavan Salai, Chennai 2.



WEB COPY



W.P.No.31032 of 2019

S.M.SUBRAMANIAM.J.,

sha

W.P.No.31032 of 2019

01.12.2022