



W.P(MD)No.6583 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders reserved on
19.07.2022

Orders pronounced on
12.08.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P(MD)No.6583 of 2015

C.Regunathan

... Petitioner

Vs

Tamil Nadu State Transport Corporation

Employees Pension Fund Trust,

Administrative Office,

Tiruvalluvalur Illam,

Pallavan Road,

Chennai - 600 002.

Represented by its Administrator.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in his proceedings in Ka.No.44/B2/Tha.Aa.Poo.K.OU.OO.Ni.Poo/2015 - 1402, dated 07.03.2015 and quash the same as illegal and consequently direct the respondent to allow commutation of pension to the petitioner.

For Petitioner

: Mr.M.Jerin Mathew
for Mr.M.E.Ilango

For Respondent

: Mr.P.Balasubramaniam



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ORDER

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This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the respondent in his proceedings in Ka.No.44/B2/Tha.Aa.Poo.K.OU.OO.Ni.Poo/2015 - 1402, dated 07.03.2015 and consequently directing the respondent to allow commutation of pension to the petitioner.

2. The petitioner joined with the respondent Corporation as Assistant Branch Manager in the year 1985 and then, he was promoted as Assistant Engineer, Assistant Engineer Selection Grade and was finally as Assistant Manager. He retired from service on 31.03.2014. At the time of his retirement, he has not opted for commutation of pension and was sanctioned a full pension of Rs. 12,157/- per month. The petitioner submitted a representation, dated 25.02.2015 for commutation of pension as per the Tamil Nadu State Transport Corporation Employees Pension Fund Rules. However, without considering the same, his request was rejected. Therefore, this Writ Petition is filed to quash the impugned order passed by the respondent, dated 07.03.2015.



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3. Learned counsel appearing for the petitioner submitted that due to family circumstances prevailing at the time of petitioner's retirement on 31.03.2014, he had not opted for commutation of pension. Again due to the present family circumstances, the petitioner wanted to exercise the option for commutation of pension, he submitted a representation before the respondent. This representation was submitted on 25.02.2015, within a period of one year from the date of his retirement. His representation was rejected by the respondent, by the impugned order, dated 07.03.2015, on the ground that once an option was not exercised for commutation of pension, that cannot be reversed.

4. In response, learned counsel appearing for the respondent submitted that the petitioner had consciously exercised the option for not opting to commute the pension at the time of his retirement. It is now not possible for considering his request for commutation. In this regard, he drew the attention to Rule 17A of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust with regard to options for commutation. As per this Rule, a Transport Corporation employee is entitled to commute upto a maximum of one-third of his pension, at the option of the employee which will be restored after 15 years from the date of commutation. When the



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petitioner had not exercised the commutation option at the time of retirement, rather opted not to commute the pension, his request cannot be entertained now.

5. Considered the rival submissions and perused the records.

6. It is not in dispute that the petitioner was working as Assistant Manager at the time of his retirement on attaining the age of superannuation on 31.03.2014. It is also not in dispute that he submitted a representation, dated 25.02.2015 i.e., within a period of one year from the date of his retirement, to commute a portion of his pension.

7. Rule 17A of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust reads as follows:-

"17A. Option for commutation

a) A member eligible to pension may, in lieu of pension normally admissible under paragraph 16, opt to commute upto a maximum of 1/3rd (one-third) of his pension multiplied by 12 and the factor given in the Table-B annexed. The commutation will be only at the



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option of the member and the balance pension will be paid on monthly basis as per formula worked out in para 16(b).

b) The commuted portion shall be restored after 15 years from the date of commutation."

8. Relying on this Rule, learned counsel appearing for the petitioner submitted that this Rule authorizes a member eligible to pension, may opt to commute upto a maximum of one-third of his pension. The annexure in Table-B gives the age which starts from 40 years to 75 years and the commutation value in relation to the age. It gives an indication that till the age of 75 years, an employee can exercise the option of commuting his pension. However, learned counsel appearing for the respondent submitted that this table is given to facilitate commutation of pension to the persons, who are facing criminal or departmental proceedings and for that reason, not permitted to retire on attaining the age of superannuation, to claim commutation after the criminal or departmental proceeding is over. The explanation offered by the respondent sounds reasonable and plausible.



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9. No doubt that Rule 17A of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust entitles a member eligible to pension may, opt to commute upto a maximum of one-third of his pension. However, there is no indication as to when this option should be exercised. Whether the option has to be exercised prior to retirement or on the date of retirement or it can be exercised subsequent to the date of retirement. This Rule does not provide any answer to these questions.

10. The Tamil Nadu Pension Rules, 1978 and the Tamil Nadu Pension (Commutation) Rules, 1944, governing the Government servants of Tamil Nadu provide some light on this issue. Rule 6(c) of the Tamil Nadu Pension (Commutation) Rules, 1944 requires that applications for commutation of pensions shall be made at the time of application submitted for sanction of pension.

11. Rule 7(1) of the Tamil Nadu Pension (Commutation) Rules, 1944 proviso reads as follows:-

"Provided that no such certificate of medical authority shall be necessary in the case of a pensioner who applies for commutation within a



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period of one year from the date of his [retirement on superannuation; voluntary retirement and compulsory retirement other than as a measure of punishment:]"

It is seen from the proviso of Rule 7(1) of the Tamil Nadu Pension (Commutation) Rules, 1944, that no certificate of medical authority is necessary in case of pensioner, who applies for commutation within a period of one year from the date of his retirement, meaning thereby the option to commute the pension can be taken within a period of one year from the date of his retirement.

12. In the case before hand, the petitioner had not exercised the option of commutation, rather he exercised the option of not commuting the pension. However, within a year from the date of his retirement, he changed his mind and submitted a representation, dated 25.02.2015. When the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust have no specific provision as to the time, before which the commutation option has to be given, this Court is of the considered view that, in the light of the reasons stated by the petitioner, the petitioner may be given permission to commute his pension, as a special case.



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13. In this view of the matter, the impugned order passed by the respondent, dated 07.03.2015 is set aside and the respondent is directed to permit the petitioner to commute one-third of his pension and pay him the amount due as per the commutation table given in Table (b) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust.

14. In the result,

"This Writ Petition is allowed by setting aside the impugned order passed by the respondent, dated 07.03.2015 and the respondent is directed to permit the petitioner to commute one-third of his pension and pay him the amount due as per the commutation table given in Table (b) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust, as a special case".

There shall be no order as to costs.

12.08.2022

Internet :Yes
Index :Yes / No
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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 Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Administrative Office,
Tiruvalluvalur Illam,
Pallavan Road,
Chennai - 600 002.



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G.CHANDRASEKHARAN, J.

ps

Order made in
W.P(MD)No.6583 of 2015

12.08.2022