



W.P.No.2200 of 2019
and W.M.P.No.2446 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

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THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.2200 of 2019
and W.M.P.No.2446 of 2019

The Managing Director,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

... Petitioner

Vs.

1. P.Sankar

2. The Administrator,
TNSTC Employee Pension Fund Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai 600 002.

... Respondent

(R2 impleaded vide orders dated 25.08.2020
made in W.M.P.No.13903 of 2020)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the order passed in C.P.No.105/2016 dated 06.09.2018 on the file of the II Additional Labour Court, Chennai.



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For Petitioner : Mr.M.Chidambaram

For Respondents

For R1 : Mr.V.Chinnasamy

For R2 : No appearance

ORDER

This Writ Petition is filed by the Metropolitan Transport Corporation (Chennai) Limited challenging the Award dated 06.09.2018 passed by the Presiding Officer, II Additional Labour Court, Chennai, in C.P.No.105/2016.

2.The 1st respondent is a retired employee of the Metropolitan Transport Corporation Limited formerly known as Pallavan Transport Corporation Limited. He joined as a Conductor in Pallavan Transport Corporation Limited on 28.04.1974. According to the 1st respondent, he had not been paid pensionary benefits equal to the other government employees and that the Management is liable to pay a sum of Rs.19,17,000/-. In this regard, he filed an application under Section 33C(2) of the Industrial Disputes Act in C.P No.105/2016 before the Presiding Officer, II Additional Labour Court, Chennai. The learned II



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Additional Labour Court, Chennai vide her orders dated 06.09.2018 allowed the application filed by the 1st respondent and directed the petitioner Transport Corporation to quantify the amount to be paid to the 1st respondent.

3.Mr.M.Chidambaram, learned counsel for the Metropolitan Transport Corporation Limited contended that as per G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005, the Tamil Nadu State Transport Department employees who were absorbed in Tamil Nadu State Transport Corporations and had put in qualifying service of 10 years as on 01.04.1982 alone are entitled for pensionary benefits. According to him, since the 1st respondent was not working in the Petitioner Metropolitan Transport Corporation Limited and he joined as a Conductor in Pallavan Transport Corporation, he cannot claim benefits under G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2005. According to him, the learned II Additional Labour Court, Chennai had passed an order erroneously and therefore, the same is liable to be set aside.



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4.Per contra, Mr.V.Chinnasamy, learned counsel for the 1st respondent contended that the Labour Court had clearly analyzed the evidence on record and had come to a conclusion that the petitioner is liable to pay the pensionary benefits to the 1st respondent.

5. G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005, Clause 5 (a) & (b) is extracted hereunder :

"5.The Government after re-examination of the whole issue have decided to implement the orders of the Supreme Court of India, referred in the judgment seventh read above and accordingly issued the following orders:-

The Government fix the cut off date as 01.04.1982 in respect of the erstwhile Tamil Nadu State Transport Department employees who had put in less than 10 years of Government service as on their permanent absorption in State Transport Undertakings only for the limited purpose of assessing the requisite length of qualifying service of 10 years to earn pension. The eligible erstwhile Tamil Nadu State Transport Department employees whoever have retired shall get the arrears of pension only from 01.01.1988 which date is fixed with reference to the year of filing the first writ petition.



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The fixation of pension and payment of arrears shall be done accordingly as ordered by the Hon'ble Supreme Court of India as per the rules and Government Orders applicable to them in the following manner:

- a) The erstwhile Tamil Nadu State Transport Department employees who were absorbed in Tamil Nadu State Transport Corporations and retired before 01.01.1988 or after 01.01.1988 but before 01.09.1998 be paid pension if they had put in the qualifying service of 10 years as on 01.04.1982. Period of Daily paid services, leave on loss of pay and suspension treated as specific punishment should be excluded while arriving the net qualifying the service.*
- b) As per the clause 2(p) (ii) 7 clause 14(b) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules issued in G.O. fourth read above and with reference to Rule 7 of the Tamil Nadu Pension Rules the erstwhile Tamil Nadu State Transport Department employees who were absorbed in Tamil Nadu State Transport Corporations and retired after 01.09.1998 be paid pension as per the Pension Scheme of the State Transport Corporations brought into force by the settlement under Section 12(3) of the Industrial Disputes*



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*Act, 1947 and they are not eligible for the second pension
as per the G.O. third read above."*

In the instant case, the respondent joined the service as a Conductor only in the Pallavan Transport Corporation and was not working in Metropolitan Transport Corporation (Chennai) Ltd., for claiming pensionary benefits under the said Government Order.

6. Therefore, the Writ Petition is allowed. The orders dated 06.09.2018 in C.P.No.105/2016 passed by the learned Presiding Officer, II Additional Labour Court, Chennai, is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

16.10.2023

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

To
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