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W.P.No.6018 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.6018 of 2020

1. K.Subramaniam (Deceased)
2. Kalyani
3. Sangeetha

... Petitioner

(P2 and P3 substituted as Legal Representatives
of the deceased sole petitioner vide orders, dated
11.11.2021 in WMP No.24992 of 2021)

Vs.

1. The Commissioner & Secretary,
Transport Department,
Fort St.George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Chennai Division,
(Formerly Pallavan Transport Corporation Ltd.,)
Pallavan House,
Chennai - 600 002.

...

Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records in respect of the orders passed by the II Additional Labour Court, dated 13.03.2019 in C.P.No.156 of 2017, quash the same and consequently direct the respondents to pay pension to the petitioner from the date of his retirement i.e., 31.03.1996 with 12% interest till the disbursement of the amount.

For Petitioners : Mr.V.Chinnasamy
For Respondent
For R1 : Mr.D.Gopal,
Government Advocate

For R2 : Mr.R.Balaji.
Standing Counsel

ORDER

The Writ Petitioner since deceased, is represented by his legal heirs.

2. The case of the Writ Petitioner is that he was appointed as a Conductor - Trainee on 07.03.1972 and voluntarily retired from service on 31.03.1996. The petitioner was informed by the 2nd respondent, the



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Managing Director, Tamil Nadu State Transport Corporation Ltd., Chennai that a person, who had completed 10 years of service as on 01.04.1982 in Transport Department and goes on VRS (Voluntary Retirement Scheme) would be getting pension and also wages from the Transport Corporation simultaneously. Based on this, the petitioner opted for Voluntary Retirement and was relieved on 31.03.1996. According to the Writ Petitioner, though he completed 10 years of service on 06.02.1982 as per circular G.O.(Ms).No.42, Transport (RW) Department, dated 27.05.2005, he has not been paid pension and therefore he filed C.P.No.156/2017 before the Labour Court, Chennai under Section 33(C)(2) of the Industrial Disputes Act, 1947 seeking payment of recovery of a sum of Rs.38,34,000/- from the 2nd respondent. The Labour Court, Chennai vide its orders, dated 13.03.2019, dismissed the said application by observing that since the petitioner had completed only eight years of service on 01.04.1982, he cannot get any pensionary benefits.

3. Mr.V.Chinnasamy, learned counsel for the petitioner



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contended that the petitioner joined the service on 07.03.1972 and on 01.04.1982 he has completed more than 10 years of service and that the 2nd respondent, Management cannot now contend that he is not eligible for Government Pension as per G.O.(Ms).No.42, Transport (RW) Department,dated 27.05.2005.

4. The contention of the learned counsel for the respondents is that as per G.O.(Ms).No.42, Transport (RW) Department,dated 27.05.2005, those who have completed 10 years of service in the Transport Department as on 01.04.1982 are alone eligible for Government Pension and that in the instant case, since the petitioner has not completed 10 years of service as on 01.04.1982, he cannot claim pensionary benefits.

5. It is seen from the records that the petitioner though joined service on 07.03.1972, his services were regularised only from 01.04.1973. The cut of date was fixed as 01.04.1982 and therefore, he has not completed 10 years of service for claiming pensionary benefits.



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Hence, the orders passed by the II Additional Labour Court, dated 13.03.2019 in C.P.No.156 of 2017 is perfectly in order. Hence, the Writ Petition is dismissed as devoid of merits. No costs.

12.10.2023

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

To

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R. HEMALATHA, J.



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