IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.20458 of 2016

M.Ranganathan ... Petitioner

Versus

1.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund,
Pallavan Salai, Chennai – 600 002.

2.The Management of Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Villupuram
Represented by General Manager ... Respondents

Prayer : - Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, after calling for the records relating to the order Ka.No.30019-1PF4/TNSTC(Vizh)/2015, dated 04.01.2016 of the 2nd respondent and quash the same and consequently direct the 1st respondent to pay pension to the petitioner from the date of retirement for the service rendered with the 2nd respondent Transport Corporation.

For Petitioner	:	Mr.S.T.Varadarajulu
For R1	:	Mr.M.Aswin Standing Counsel
For R2	:	Mr.C.S.K.Sathish Standing Counsel

ORDER

(1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the order in Ka.No.30019-1PF4/TNSTC(Vizh)/2015, dated 04.01.2016 of the 2nd respondent and to quash the same and to direct the 1st respondent to pay pension to the petitioner from the date of his retirement for the service rendered by him with the 2nd respondent Transport Corporation.

(2) In the affidavit filed in support of the writ petition, the petitioner had stated that he joined the services of the 2nd respondent Transport Corporation / Tamil Nadu State Transport Corporation [Vpm] as Driver on 22.11.2000 with Staff No.4075. He retired on attaining the age of superannuation on 30.06.2011. The petitioner claimed that he had rendered service for a total period of 10 years, 7 months and 8 days. He had sought the services to be considered as a pensionable one and sought retirement benefits on that particular basis. The

petitioner then filed WP.No.15326/2012 seeking a direction to pay pension under the 1998 Pension Scheme. By an order daetd 08.10.2015, a direction was given to consider such representation. The impugned order came to be passed rejecting the representation of the petitioner herein.

(3) It is the contention of the 2nd respondent that the petitioner had been brought into regular service on 01.09.2001 and therefore, on the date of his retirement on 30.06.2011, he had not completed 10 years of service and had rather, completed only 9 years, 9 months and 29 days. It is therefore, contended that since the petitioner had put in less than 10 years of service, he is not eligible for that particular period of service to be considered as one which is eligible for grant of pension.

(4) The learned counsel for the petitioner however widened the arguments by pointing out the Tamil Nadu State Transport Corporation Employees' Pension Trust Rules. It is for that purpose, he had also impleaded the 1st respondent namely, the Administrator, Tamil Nadu State Transport Corporation Employees' Pension Fund.

In the said Rules, which are binding on both the petitioner and the respondents, the following definitions/stipulations would be required to be examined for adjudicating the issues:-

> *"**Definition:***
>
> *Unless excluded by or repugnant to the context:-*
>
> .....
>
> *[p]The "Actual Service" as defined below shall be reckoned for calculating pensionable service:-*
>
> ....
>
> *[iii]In respect of all other employees, the date of regular employment or becoming the member of the Employee's Provident Fund in the STU will be reckoned for the calculation of pensionable service."*

(5) The learned counsel placed reliance on the above definition of "Actual Service" and stated that the date of regular employment or becoming a member of the Employees' Provident Fund would be reckoned for the calculation as pensionable service. In this connection, the learned counsel places reliance on an information received through the Right to Information Act wherein it had been stated that the first deduction towards Provident Fund was in

November 2000, the first month on which he joined the service. The learned counsel therefore stated that if that particular factor is taken into consideration on the date of retirement on 30.06.2011, he would have completed more than 10 years of service and therefore, eligible for pension.

(6) The learned counsel for the petitioner also put forth analternate argument by relying on Rule 13 and sub-clause [a] and [b], which are extracted below:-

> *"**13.DETERMINATION OF ELIGIBLE SERVICE:-***
>
> *The eligible service shall be determined as follows:-*
>
> *[a]In the case of a "New Entrant" entering into service on or after 01.09.1998 the "actual service" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more shall be treated as one year and the service less than six months shall be ignored.*
>
> *[b]In the case of the "existing member", as on*

> *01.09.1998, the aggregate of actual service as indicated para 2[p] shall be treated as eligible service."*

(7) In sub-clause [a] above, it had been stated that the "actual service" shall be rounded off to the next nearest year. If the contention of the 2nd respondent is to be taken into consideration that the petitioner had put in 9 years, 9 months and 29 days of service and if it is to be rounded off, then the petitioner would have completed 10 years of service. But this particular aspect is to be read in conjunction with the earlier Rule 2[p][iii] which provided that the initial date should be from the date on which the Provident Fund is deducted namely, from November 2000. Therefore, for all practical purposes, the petitioner had to be considered as come into regular service from Nov. 2000 and his pension should be calculated from that particular date always.

(8) I must place on record my deep appreciation to the learned Standing counsels appearing for the respondents 1 and 2 who also affirmed that the Rules would be applicable to the petitioner herein.

(9) The writ petition therefore, stands **allowed** and the Impugned Order of the 2nd respondent dated 04.01.2016 is quashed. Necessary proceedings to be issued by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. Interest is to be payable on those heads for which interest is actually allowed. No costs.

04.09.2023

AP
Internet : Yes

To

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Represented by General Manager.

C.V.KARTHIKEYAN, J.,

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