



WEB COPY



WP.Nos.34551 to 34553/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.Nos.34551 to 34553/2016

Mrs.S.Kiruba

... Petitioner in
WP.No.34551/2016

Mr.S.Yoosuf Shaib

... Petitioner
in WP.No.34552/2016

Mr.V.Krishnan Nair

... Petitioner
in WP.No.34553/2016

Versus

- 1.The Secretary to Government
Finance [Pension] Department
Fort St Gerge, Chennai-9.
- 2.Director of Administration
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.
- 3.The Assistant Director,
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.



WP.Nos.34551 to 34553/2016

4.The Branch Manager
Tamil Nadu STC Express Corporation
Nagapattinam [D.T].

5.The Assistant Manager
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.

6.The Accountant General of Tamil Nadu
Accounts and Entitlement, Teynampet
Chennai.

... Respondents in
WP.Nos.34551/2016

****R6 Cause Title amended vide order
dated 27.07.2022 made in WMP.No.18806/2022
in WP.No.34551/2016**

1.The Secretary to Government
Finance [Pension] Department
Fort St George, Chennai-9.

2.Director of Administration
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.

3.The Branch Manager
Nesamony Transport Corporation Limited
Nagercoil, Rani Thottam Branch-I
Kanniyakumari [D.T]

4.General Manager
Tamil Nadu State Transport Corporation
[Tirunelveli] Limited, Nagercoil Zonal,
Rani Thottam, Nesamani Nagar
Nagercoil 629 001.



WP.Nos.34551 to 34553/2016

5.The Accountant General of Tamil Nadu
Accounts and Entitlement, Teynampet
Chennai.

... Respondents in
WP.Nos.34552 & 34553/2016

****R5 Cause Title amended vide order
dated 27.07.2022 made in WMP.No.18807/2022
in WP.No.34552/2016**

Prayer in WP.No.34551/2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of 5th respondent by his proceedings Letter No. 29676/ C2/ SETCTN/ 2015 dated 05.01.2016 and quash the same and direct the respondents 1 to 5 to sent proposals to the 6th respondent under the Madras Liberalized Pension Rule 1960 and consequential direction to the 6th respondent to sanction pension to the petitioners Husband from the date of retirement i.e. 1.2.1991 to 31.5.1996 and family pension to the petitioner from the date of death of the petitioners husband.

Prayer in WP.No.34552/2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of 4th respondent by his proceedings Letter No. 2927/ And.4/ TNSTC(Trivl)/ Nagar/2004 dated 27.02.2015 and quash the same and direct the respondents 1 to 4 to sent proposals to the 5th respondent under the Madras Liberalized Pension Rule 1960 and consequential direction to the 5th respondent to sanction pension with all



WP.Nos.34551 to 34553/2016

consequential pensionary benefits from the petitioners date of retirement and arrears with interest.

Prayer in WP.No.34552/2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to consider the petitioner representation dated 22.05.2014 and further direction to the respondents 1 to 4 to sent proposals to the 5th respondent under the Madras Liberalized Pension Rule 1960 and consequential direction to the 5th respondent to sanction pension with all consequential pensionary benefits from the date of retirement and arrears with interest.

WP.No.34551/2016

For Petitioner	:	Mrs.Selvi Rajesh
For R1	:	Mr.V.Nanmaran, AGP
For RR2 to 5	:	Mr.L.S.M.Hasan Fizal, AGP
For R6	:	M/s.Hema Murali Krishnan
		Standing counsel

WP.Nos.34552 & 34553/2016

For Petitioner	:	Mrs.Selvi Rajesh
For R1	:	Mr.V.Nanmaran, AGP
For RR2 to 4	:	Mr.L.S.M.Hasan Fizal, AGP
For R5	:	M/s.Hema Murali Krishnan
		Standing counsel



WP.Nos.34551 to 34553/2016

COMMON ORDER

- (1) Since the issues raised in all the writ petitions are similar, a common order is passed.
- (2) WP.Nos.34551 and 34552/2016 have been filed in the nature of a certiorarified mandamus seeking records of the 5th respondent in WP.No.34551/2016 / 4th respondent in WP.No.34552/2016, Assistant Manager, Tamil Nadu STC Express Corporation, Chennai , in proceedings in Letter No.29676/C2/SETCN/2015 dated 05.01.2016 [in WP.No.34551/2016] and Letter No.2927/Adn.4/TNSTC [Trivl]/Nagar/2004 dated 27.02.2015 [in WP.No.34552/2016] and to quash the said proceedings.
- (3) The third writ petition in WP.No.34553/2016 had been filed in the nature of a mandamus seeking a direction to the respondents to consider the representation of the petitioner dated 22.05.2014.
- (4) In all the three writ petitions, the petitioners seek that the respondents should send the proposals to the Accountant General under the Madras Liberalized Rules, 1960. In WP.Nos.34551 & 34552/2016, the Impugned Orders by which the representations of the petitioners



WP.Nos.34551 to 34553/2016

were rejected, had been challenged. In WP.No.34553/2016, a mandamus is sought for consideration of the petitioner's representation.

- (5) In the affidavit filed in support of the writ petition in WP.No.34551/2016, which writ petition is taken up as an illustrative case, it had been stated that the petitioner therein was the widow of Mr.V.Sankaran, who died on 01.06.1996 and who had joined the Madras State Transport Department through the Employment Exchange, Madras [MSTD] as Conductor on 01.02.1969. His probation had been declared after two years. He then worked in the State of Tamil Nadu in various Districts and he died while in service on 01.06.1996 in Nagapattinam as Conductor. It had been stated that on 28.03.1974, G.O.Ms.No.212, had been issued stating that the employees could opt for a scheme under the Madras Liberalized Pension Scheme. It was specifically provided in the said Government Order that the employees had the option to request the Management to be governed by the Madras Liberalized Pension Rules, 1960 or by the Liberalized Pension Rules, 1960 and the option should be



WP.Nos.34551 to 34553/2016

exercised on or before 30.06.1974. It had also been stated that the husband of the petitioner had not so opted. It had been further stated he never know and that he was never put on notice about the said scheme. Thereafter, when a representation was given to so opt to the said scheme, the claim had been rejected stating that the representation had been given after considerable delay.

- (6) However, the learned counsel for the petitioners had widened the arguments by stating that several writ petitions have been similarly filed and which had been considered by learned Single Judges and also by Division Benches of this Court and the matter had also travelled up to the Hon'ble Supreme Court on two separate occasions and the Hon'ble Supreme Court had affirmed the right of the petitioners therein to opt for such scheme. It is under those circumstances, that the writ petitions have been filed.
- (7) On the side of the respondents, however, a very strong objection has been raised, but inspite of several opportunities granted, counter affidavit had not been filed on behalf of the respondents 1 to 5 in WP.No.34551/2016 / respondents 1 to 4 in WP.Nos.34552 &



WP.Nos.34551 to 34553/2016

34553/2016.

WEB COPY

- (8) Today, again an opportunity was sought to file counter.
- (9) But, in view of the nature of discussions in the Court, it would only be prudent that orders are passed in the writ petitions.
- (10) The 6th respondent in WP.No.34551/2016 / 5th respondent in WP.Nos.34552 & 34553/2016, Accountant General, had however filed a counter affidavit. In the said counter, it had been stated that it was the Accountant General who shall authorise pension to the erstwhile employees of the Tamil Nadu State Transport Department who had been absorbed in the Tamil Nadu State Transport Corporation and had retired. It had been stated that in this regard, various Government Orders had been passed and in particular, it had been stated that finally, G.O.Ms.No.387, Finance [Pension] Department dated 10.12.2019 had been passed, directing Family Pension to be paid to the families of the eligible members of the Absorbee Pensioners from the date following the date of death in respect of such absorbee pensioners as well as the other State Government employees who had rendered not less than 10 years of



WP.Nos.34551 to 34553/2016

WEB COPY

net qualifying service in the Government and who had been absorbed subject to deduction of EPF, Family Pension already received. With respect to the writ petitioners herein, it had been stated that they were covered under OSS Rules [non-pensionable scheme]. They had opted to continue in the Non-pensionary Contributory Provident Fund Scheme by exercising option in writing and therefore, they were not extended the benefits of the Madras Liberalized Pension Rules, 1960, which is now called as the Tamil Nadu Pension Rules, 1970 in terms of the specific Government Orders issued based on the Court orders.

- (11) It had also been stated that no right can accrue to a person based on a Court Order/Government Order issued erroneously. In this connection, reference had been made to the judgment of the Hon'ble Supreme Court in ***State of Bihar Vs. Kameshwar Prasad Singh***, reported in ***2000 [9] SCC 94***. It had been stated that the concept of equality cannot be enforced in a negative manner and is a positive concept. It had also been stated that benefits extended to some persons in irregular or illegal manner, cannot be claimed any other citizen. Further reference had also been made to yet another



WP.Nos.34551 to 34553/2016

WEB COPY

judgment of the Hon'ble Supreme Court in ***Gursharan Singh and Others Vs. NDMC and Others*** reported in ***1996 [2] SCC 459***, where again, it had been stated that an illegal procedure or an illegal order cannot be the basis for extending similar benefits to others. It had been stated that therefore, the petitioners herein cannot seek the relief.

- (12) On the side of the respondents 1 to 5 in WP.No.34551/2016 / respondents 1 to 4 in WP.Nos.34552 & 34553/2016, it had been contended that the issue of delay and laches stare on the face of the petitioners herein. It had been stated that the said issue had been directly answered by a Division Bench of this Court in ***WA.No.1245/2018 [Tamil Nadu State Transport Corporation [Villupuram] Limited rep.by the Managing Director, Villupuram and Others V. G.Kamala]***, by a judgment dated ***06.09.2018***. That particular Writ Appeal, was filed questioning an order of a learned Single Judge in WP.No.534/2017 dated 24.04.2018, with respect to the very same issue of exercising option under the then Madras Liberalized Pension rules, 1960. While examining the issue of delay and laches, the Division Bench had held as follows:-



WP.Nos.34551 to 34553/2016

"7....Anyhow, though several grounds have been raised for granting Family Pension to the 1st respondent, it is quite surprising to note that the husband of the 1st respondent died during the year 29.01.1994 whereas the writ petition was filed only in the year 2017 after a lapse of nearly 23 years by taking a suo motu decision. Therefore, we are of the view that mainly on the ground of delay and laches itself, there is no case for the 1st respondent. That apart, it is pertinent to note that within the extended cut off date, the deceased husband of the writ petitioner exercised option and received the benefits on attaining the age of superannuation.

8.In view of all the above, the Writ Appeal is allowed and the order of the learned Single Judge dated 24.04.2018 is set aside. Consequently, the connected miscellaneous petition is closed. No costs."

- (13) As against that particular judgment, the 1st respondent therein had also filed a Review Application in Rev.Appl.315/2018 and that came up for consideration before a Coordinate Bench of this Court and by a judgment dated 12.04.2019, the Review Application was dismissed. A strong reliance was placed on this particular judgment of the



WP.Nos.34551 to 34553/2016

Division Bench. It is contended by the learned Additional Government Pleader appearing for the State Transport Corporation that though the counter affidavit had not been filed, the relief sought by the petitioners herein suffers on the ground of delay and laches.

- (14) Heard the learned counsel for the petitioners ; the learned Additional Government Pleader appearing for the State Government ; the learned learned Additional Government Pleader appearing for the Transport Corporation and the learned Standing counsel appearing for the Accountant General of Tamil Nadu.
- (15) In the affidavit filed in support of WP.No.34551/2016, filed by the petitioner Mrs.S.Kiruba, it had been stated that her husband V.Sankaran, had died on 01.06.1996. He had joined the Madras State Transport Department on 01.02.1969. He had died while in service. While in service, he had not opted for the Madras Liberalized Pension Rules, 1960 and if he had so opted, he would have had the benefit of the pension being granted to him. However, he continued to be under the Contributory Pension Scheme.



WP.Nos.34551 to 34553/2016

WEB COPY

- (16) The petitioner places a claim based on Court orders and therefore, claims that she should be treated on the same footing as others whose claim had been subsequently considered by the Court and that Government Orders have also been passed making such scheme applicable to those petitioners therein.
- (17) The learned counsel for the petitioners first placed reliance on the judgment of a learned Single Judge dated **08.10.2009** in ***WP.[MD].No.1181/2008 [S.Thamburan Vs. The Secretary to Government, Transport Department, Chennai-9 and Others]***. In the said judgment, the learned Single Judge had examined the very same issue which had come up for consideration. In that particular case, the petitioner had joined the Transport Department as Conductor on 25.05.1968 and retired on 29.02.1992, after putting in more than 20 years of service. It was claimed that the petitioner therein was therefore, eligible for the benefits under G.O.Ms.No.212, dated 28.03.1974. It must be stated that G.O.Ms.No.212, Transport Department, dated 28.03.1974 provided option for employees of the Transport Department to opt for scheme under the Madras Liberalized



WP.Nos.34551 to 34553/2016

WEB COPY

Pension Rules, 1960 and that such option should be exercised on or before 30.06.1974 and those who do not exercise that option, cannot subsequently exercise that particular option. It had however been stated that the Court had considered the right of the petitioner therein who was a senior citizen and had also appointed an Amicus Curiae. The learned Single Judge had placed reliance on the judgment of the Hon'ble Supreme Court in ***State of Tamil Nadu and Others Vs. V.Ananchu Asari and Others*** reported in **2003 [10] CC 503**, which considered exercising option after the cut off date. The Hon'ble Supreme Court had dismissed the appeal filed by the Government. A Review Application was filed and that was also dismissed and that judgment was reported in **2005 [2] SCC 332**. In the Review Application, it had been observed as follows:-

"3.....It is not necessary for us to express any view on the question whether the Transport Corporation employees who were erstwhile government servants retiring after 1-1-1988 would be eligible to get the pension in addition to the salary drawn by them in the Corporation, as per the Rules



WP.Nos.34551 to 34553/2016

and GOs applicable to them. It is the contention of the learned counsel for the respondent employees that the GOs issued by the Government themselves contemplated such payment and in fact those who were parties to the earlier writ petitions were given that benefit. This issue cannot legitimately form the subject-matter of either review or clarification. Hence the review petitions are dismissed with the above observations. Time for implementation of judgment is extended by four months from today."

- (18) The learned counsel for the petitioner stated that the Government had thereafter, passed necessary Government Order with respect to S.Thamburan. Thereafter, reliance had also been placed on yet another judgment of a Division Bench of the Madurai Bench in ***WA [MD].Nos.776 to 778/2011 [The Tamil Nadu State Transport Corporation [Madurai] Limited through its Managing Director, Madurai and Another Vs. Sankaran and 2 Others]*** dated **29.09.2015**. The Division Bench, in that particular case, had once again examined the very same issue and also examined the issue of delay and laches. The Division Bench, had observed as follows:-



WP.Nos.34551 to 34553/2016

" 13. From a reading of the order of the learned Single Judge, it is seen that there is nothing in the Service Register and it shows that the respective first respondent in the writ appeals, have exercised their option before 30.06.1974, i.e., cut-off date. On the other hand, the entries in the Service Register with regard to the alleged option exercised by the respective first respondent in the writ appeals were made much later than 30.06.1974, i.e., cut-off date. Further, in similar matter, this Court held that the option had been recorded, much later than 30.06.1974 and allowed the writ petition. A Division Bench of this Court, dismissed the appeals filed against the said order, dated 08.09.2009, made in W.A.SR(MD)No.40406 of 2010, in the SR stage itself and SLP filed by the appellants was also dismissed and the second respondent, Secretary to Government issued G.O.(3D)No.24, Transport (RW1) Department, dated 14.09.2015, granted the benefits to S.Thumburan, the petitioner in W.P.(MD)No.1181 of 2008. The learned Single Judge has verified the Service Register relating to the respective first respondent in the writ appeals and has come to the conclusion that the entries made in their Service Register, with regard to option to remain



WP.Nos.34551 to 34553/2016

in OSSR Scheme were made much later than 30.06.1974, i.e., cut-off date. Further, in the Proforma, to give option, there is no date mentioned as to when Sankaran signed the same. As far as M.Pethuru and Rajamani are concerned, they have signed on 26.07.1974, much later than, i.e., 30.06.1974.

14. For the above reasons and following the order, dated 08.10.2009, made in W.P.(MD) No.1181 of 2008, the learned Single Judge rightly allowed the writ petitions. The learned Single Judge has also given valid reasons for allowing the writ petitions and therefore, we find no reason to interfere with the same.

15. In the result, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed."

(19) The entire issue therefore, surrounds an issue on fact, namely, whether the petitioners or that late husbands had exercised the option or not. It also revolved around delay and laches. It also revolve around whether the petitioners have a right to exercise that particular option and to be considered for the same.

(20) The learned counsel for the petitioners also placed reliance on the



WP.Nos.34551 to 34553/2016

judgment of a learned Single Judge in **WP.No.21123/2015**
[A.Paramanantham Vs. The Secretary to Government, Finance
[Pension] Department, Chennai and Others], wherein, the learned
Single Judge, vide order dated **30.09.2022**, after examining the
earlier orders of this Court and also the order in WP.No.7975/2015
[S.Arunachalam Vs. Secretary to Government, Finance [Pension]
Department, Chennai, and Others] and finally ordered as follows:-

"2. The similar prayer was already considered by me in the case of S.Arunachalam Vs. The Secretary to Government, Finance (Pension) Department and others passed in W.P.No.7975 of 2015 and by order dated 01.06.2022, the Writ Petition was allowed and the respondents were directed to sanction pension to the petitioner therein under the Madras Liberalized Pension Rules. The relevant portion of the order reads as follows:-

"The proceedings of the second respondent vide Letter No.16593/C/4/A.V.PO.Ka./2014 dated 27.10.2014 and the fourth respondent vide Letter No.8533/A4/TNSTC (Trivl)/Nagar/92, dated 22.09.2014, are put under challenge in



WP.Nos.34551 to 34553/2016

the present Writ Petition.

2. Heard the learned counsel for the parties.

3. When the Transport Corporation was formed in 1975, the Government Order No.378, dated 18.04.1975, was issued to the effect that the employees of the erstwhile Tamil Nadu State Transport Department (TNSTD), who were absorbed in the Transport Corporations and completed 10 years of qualified service, would be entitled for pension from the State Department, in addition to the salary. In this connection, an option was called for from the employees, as to whether they wish to continue under the prevalent rules which is termed as Operational Subordinate Services Rules (OSSR), which is a non-pensionary Contributory Provident Fund Scheme. The cut off date for exercising the option was ultimately fixed by the Hon'ble Supreme Court as 01.04.1982.

4. It is the case of the petitioner that he



WP.Nos.34551 to 34553/2016

had not exercised his option for the OSSR and that the respondents had compelled him to sign in the proforma for the new Madras Liberalized Pension Rules, 1960 [MLPR].

*5. The issue with regard to the petitioner's entitlement for pension for the qualifying service under the Tamil Nadu State Transport Department has come up for consideration before this Court in various decisions and in one decision of the Hon'ble Division Bench, in the case of **The Tamil Nadu State Transport Corporation and other V. Sankaran and 2 others in W.A.Nos.776 to 778 of 2011** dated 29.09.2015, the signatures obtained by the employees in the proforma was dealt with and was found that when the proforma has not been counter signed by the Branch Manager under whom the employee was working, it cannot be regarded as an acceptance and therefore, would be entitled for the pension under the New*



WP.Nos.34551 to 34553/2016

Madras Liberalised Pension Rules, 1960.

6. The original records pertaining to the proforma claim to be given by the petitioner was called for and perused. In the proforma, it is seen that though the petitioner herein has signed and subscribed the date as 25.06.1974, such a proforma was not counter signed by the concerned Branch Manager or the General Manager of the Tamil Nadu State Tiruvallur Transport Corporation, where the petitioner was working at the relevant point of time.

*7. Various other decisions, in line with the Hon'ble Division Bench order have also been passed in the case of **The Government of Tamil Nadu and others Vs. M.Ananchu Asari and others**, as well as by two other learned Single Judges in the case of **S. Thamburan Vs. The Secretary to Government and others** passed in W.P. No.1181 of 2008, dated 08.10.2009 and in the case of **A. Ayya Samy Vs. The Secretary to Government***



WEB COPY



WP.Nos.34551 to 34553/2016

and other passed in W.P.(MD) No.7343 of 2018, dated 17.11.2021.

8. In the background of these decisions and by taking into account that the proforma was not counter signed by the Branch Manager or the General Manager, the petitioner's claim for pension requires consideration.

9. At this juncture, the learned Standing Counsel for the respondent's Corporation submitted that since the petitioner herein had already accepted the gratuity paid to him on 30.01.1989, is estopped from claiming the pension now.

10. I am not in agreement with such a submission. The lis with regard to the claim made by similarly placed persons was pending before the Hon'ble Supreme Court and ultimately the cut off date prescribed in the Government Order came to be replaced through the decision in Ananchu Asari (Supra), only on 29.10.2003. When the petitioner had made such a claim in the year 2014, the



WP.Nos.34551 to 34553/2016

same came to be rejected though the impugned orders, passed only on 22.09.2014 and 27.10.2014 respectively. Thus, merely because the petitioner had accepted the gratuity amount, the same will not operate as an estoppel for grant of pension. In this background, if the petitioner is directed to refund the gratuity amount already received by him to the respondents to enable him to receive the pension, the ends of justice could be secured.

11.Accordingly, there shall be a direction to the petitioner to refund the entire gratuity amount received by him, during his service under TNSTD, to the first respondent within 30 days from the date of receipt of a copy of this order.

12.The impugned proceedings of the second respondent vide Letter No.16593/C/4/A.V.PO.Ka./2014 dated 27.10.2014 and the fourth respondent vide Letter No.8533/A4/TNSTC (Trivl)/Nagar/92, dated 22.09.2014, are



WP.Nos.34551 to 34553/2016

quashed. Consequently, there shall be a direction to the respondents 1 to 4, to a send proposal to the fifth respondent for sanction of pension under the Madras Liberalized Pension Rules, 1960 [MLPR], within one month from the date on which the petitioner refunds the gratuity amount received by him for the service rendered under TNSTD and on receipt of such a proposal, the fifth respondent shall sanction pension to the petitioner under the MLPR, within one month there from. The Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs."

3. The aforesaid extract is self explanatory. Since the cause of action in the prayer sought for in this Writ Petition is similar to that of W.P.No.7975 of 2015, the present Writ Petition also deserves to be allowed.

4. In the light of the above observations, the impugned proceedings of the fourth respondent



WP.Nos.34551 to 34553/2016

dated 27.02.2015, is quashed. Consequently, there shall be a direction to the respondents 1 to 4 to send a proposal to the fifth respondent herein for sanction of pension under the Madras Liberalized Pension Rules, within a period of one month from the date on which the petitioner refunds the gratuity amount received by him, if any, for the service rendered under Tamil Nadu State Transport Department and on receipt of such a proposal, the fifth respondent shall sanction pension to the petitioner under the Madras Liberalized Pension Rules, within one month therefrom. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed."

- (21) The learned counsel for the respondents had however placed reliance on a judgment of another learned Single Judge of this Court in ***WP.[MD].No.11956/2010 dated 23.10.2019 [S.Arunachalam Vs. The State of Tamil Nadu rep. by the Secretary, Transport Department, Secretariat, Chennai and Another]***, wherein the learned Single Judge had dismissed the writ petition on the ground of laches and delay. The final reasoning of the learned Single Judge was



WP.Nos.34551 to 34553/2016

as follows:-

WEB COPY

"17.In this case, the option form itself is produced before this Court and the contention of the respondents that the option was in fact received and accepted is supported by endorsements in the service book. Hence, the respondents have acted upon on the basis of option. Any irregularity in acceptance of such option cannot be permitted to be raised at this length of time to the disadvantage of the respondents. It is a fit case, where, the Writ Petition can be dismissed on the ground of delay and laches. Accordingly, this Writ Petition is dismissed. No costs. "

- (22) It is thus seen that there are conflicting judgments of both learned Single Judges and of Coordinate Division Benches. The Hon'ble Supreme Court, had however, taken a definite stand that the case of the petitioners therein should be considered.
- (23) In view of the various opinions expressed, it would only be appropriate that the respondents once again apply their mind to the Impugned Orders herein. In the Impugned Order in WP.No.34551/2016, it had been stated that since option had not been exercised for the pension scheme, the representation given by the



WP.Nos.34551 to 34553/2016

petitioner therein, was rejected. The said Impugned Orders in both the writ petitions in WP.Nos.34551 & 34552/2016 which are both similarly cryptic in nature, without giving any further reasons, are both set aside. The matter is remitted back to the 5th respondent in WP.No.34551/2016 / 4th respondent in WP.No.34552/2016, the Assistant Manager, Tamil Nadu STC Express Corporation, Chennai, once again to examine the entire issue on the basis of the orders passed by this Court and also by the Hon'ble Supreme Court and thereafter, pass an order with reasons as to why the petitioners alone should be singled out for rejection of their representations. Let a detailed order be passed by the Assistant Manager, Tamil Nadu STC Express Corporation, Chennai.

- (24) The petitioners in WP.Nos.34551 & 34552/2016 are permitted to give fresh representations enclosing the order copies on which they rely on to the Assistant Manager, Tamil Nadu STC Express Corporation, Chennai, and if it is done so, then within a period of sixteen weeks from the date of receipt of such representations, fresh orders should be passed by the Assistant Manager, Tamil Nadu STC Express



WP.Nos.34551 to 34553/2016

Corporation, Chennai.

- (25) Insofar as WP.No.34553/2016, which has been filed only for a mandamus, let a fresh representation enclosing the order copies of the judgments, which are relied on by the petitioner, be once again given by the petitioner and on receipt of such representation, within a period of sixteen weeks from the date of receipt of such representation, an order should be passed by the Assistant Manager, Tamil Nadu STC Express Corporation, Chennai.
- (26) Let reasons be given, either for acceptance of representations or for rejection of the representations. Let the said reasons be passed on the basis of the orders of the Court which have been referred to in this common order and which should also be enclosed in the representations to be submitted by the respective petitioners.
- (27) In fine, **WP.Nos.34551 and 34552/2016 are disposed of** since, though the Impugned Orders are set aside, further directions are given to reconsider the entire issue. **WP.No.34553/2016 is also disposed of with the above directions.** No costs.

19.09.2023



WP.Nos.34551 to 34553/2016

AP

Internet : Yes

To

- 1.The Secretary to Government
Finance [Pension] Department
Fort St Geroge, Chennai-9.
- 2.Director of Administration
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.
- 3.The Assistant Director,
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.
- 4.The Branch Manager
Tamil Nadu STC Express Corporation
Nagapattinam [D.T].
- 5.The Assistant Manager
Tamil Nadu STC Express Corporation
No.2, Pallavan Salai, Chennai-2.
- 6.The Accountant General of Tamil Nadu
Accounts and Entitlement, Teynampet
Chennai.
- 7.The Branch Manager
Nesamony Transport Corporation Limited
Nagercoil, Rani Thottam Branch-I
Kanniyakumari [D.T]
- 8.General Manager
Tamil Nadu State Transport Corporation
[Tirunelveli] Limited, Nagercoil Zonal,
Rani Thottam, Nesamani Nagar
Nagercoil 629 001.

C.V.KARTHIKEYAN, J.,

AP



WEB COPY



WP.Nos.34551 to 34553/2016

Wp.Nos.34551 to 34553/2016

19.09.2023