



W.P.No.21375 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21375 of 2014

R.Dhayalan

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Fort St.George,
Chennai 09
- 2.The Secretary to Government,
Transport Department,
Fort St.George,
Chennai 09
- 3.The Director of School Education,
College Road, Chennai 06
- 4.The Managing Director,
Tamilnadu State Transport Corporation,
(Villupuram Division-I) Ltd.,
Villupuram

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to count the services of the petitioner as Assistant in the Transport Corporation from 25.01.1989 to 19.10.1999 as qualifying service for the purpose of pension & pensionary benefits.



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For Petitioner : Mr.N.Om Prakash
for Mr.R.Prem Narayan

For Respondents
For R1 to R3: Mr.Yogesh Kannadasan,
Special Public Prosecutor

For R4 : Mr.M.Ashwin,
Standing Counsel

ORDER

This writ petition has been filed for direction directing the respondents to count the services of the petitioner as Assistant in the Transport Corporation from 25.01.1989 to 19.10.1999 as qualifying service for the purpose of pension and other benefits.

2. The petitioner initially had joined as Assistant in Dheeran Chinnamalai Transport Corporation, Trichy on 25.01.1989. However, in the year 1999, he was selected to the post of B.T.Assistant through Teacher's Recruitment Board. Accordingly, the petitioner resigned his job as Assistant in the Transport Corporation and joined as B.T.Assistant on 19.10.1999. He made request to count services in the Transport Corporation as qualifying service for the purpose of pensionary benefits.

3. The learned counsel for the petitioner submitted that even



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the Tamilnadu State Transport Corporation Employees Pension Fund Rules enumerates that in respect of all other employees, the date of regular employment or becoming the member of the Employees Provident Fund in the STU will be reckoned for the calculation of pensionable service. The Rule 11 of the Tamilnadu Pension Rules, 1978 unambiguously enumerates that officiating or temporary services in a pensionable post whether rendered in a regular capacity or not shall count in full as qualifying service even if it is not followed by confirmation.

4. The third respondent filed counter and it revealed that there is no rule in the Tamilnadu Pension Rules, 1978 to sustain the claim of the petitioner. Rule 11 of the Tamilnadu Pension Rules, 1978 interpret that the services rendered in civil services under Tamilnadu Government only and does not mean the services under the Corporation. The Rule 2 of the Tamilnadu Pension Rules, 1978 says that these rules are applicable to all Government servants appointed to services and posts in connection with the affairs of the State and are borne on the pensionable



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establishments, whether temporary or permanent, but shall not apply to non pensionable establishment. Therefore, the petitioner is not eligible to count the service rendered by him as Assistant from 25.01.1989 to 19.10.1999 as qualifying service for the purpose of pension and pensionary benefits.

5. Admittedly, the service rendered by the petitioner in the Transport Corporation is covered by the Tamilnadu State Transport Corporation Employees Pension Fund Rules and therefore, the services of the petitioner as Assistant in the Transport Corporation cannot be taken as qualifying service in the Tamilnadu Pension Rules, 1978. Once the petitioner resigned from the post of Assistant in the Transport Corporation, forfeit not only the service rendered by him in the particular post held by him at the time of resignation, but all his previous service under the Government. The re-appointment of such person to any service shall be treated in the same way as the first appointment to such service by direct recruitment and all the provisions governing such appointment shall apply and on such re-appointment, he shall not be entitled to count



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any portion of his previous service for any benefit or concession admissible under the Tamilnadu Government Servants (Conditions and Service) Act, 2017. Therefore, the claim of the petitioner cannot be considered and the writ petition itself lacks of merits.

6. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

12.07.2023

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Secretary to Government,
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Chennai 09
- 2.The Secretary to Government,
Transport Department,
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Chennai 09
- 3.The Director of School Education,
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- 4.The Managing Director,
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Villupuram
5. The Public Prosecutor,
High Court, Madras.

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