



WEB COPY



WP.No.27857/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.27857/2019

A.Chokkalingam

... Petitioner

Versus

1.The Additional Chief Secretary
Transport Department
Fort St George, Chennai 600 009.

2.The Managing Director
Tamil Nadu State Transport Corporation
[Villupuram] Ltd., Vazhdhareddy,
Villupuram.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus to direct the respondents 1 and 2 to take necessary action to pay the petitioner with the revised rate of pension taking note of his entire length of service commencing from 14.12.1965 till the date of retirement 20.06.1998 and to apply Rule 11 of Tamil Nadu Pension Rules, 1978, and also to direct the respondent to pay the arrears of pension for 01.04.1988 ending upto the date of disbursal of the amount along with interest computed at the rate of 18% per annum.



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For Petitioner : Mr.P.Paramasiva Doss
For R1 : Mr.K.Surendharan, AGP
For R2 : Mr.M.Aswin, Standing counsel

ORDER

- (1) I am not able to understand the nature of the writ petition filed which is in the nature of a mandamus seeking a direction to the respondents to consider the entire length of service of the petitioner from 14.12.1965 till his retirement on 20.06.1998 and apply Rule 11 of the Tamil Nadu Pension Rules, 1978, and grant revised rate of pension and also arrears of pension.
- (2) In this connection, seeking the above relief, the petitioner had given a representation on 06.06.2019. Any mandamus issued, would only result in an order passed by the respondents and if it is adverse to the petitioner herein, then the petitioner would be forced to file another writ petition questioning that particular order. It is for that reason in service matters, a mandamus should not be sought.
- (3) The petitioner had joined the service of the Tamil Nadu State Transport Corporation [Villupuram] Limited on 14.12.1965 as Conductor on daily wage basis. The services were regularised on



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06.01.1967. On the demerger of the Departments and formation of a new Transport Corporation, the petitioner joined the 2nd respondent Corporation on 01.04.1975. He attained the age of superannuation on 30.06.1998. The petitioner was not paid any pensionary benefits. Subsequently, there was a judgment passed by the Hon'ble Supreme Court reported in **2003 [10] SCC 503 [State of Tamil Nadu and Others Vs. M.Ananchu Asari]**, by which, a direction was given for payment of pension and also consequent to that, G.O.Ms.No.42, Transport [RW] Department dated 27.05.2005 had been issued by the respondents.

- (4) The petitioner thereafter, was paid the necessary pensionary benefits in accordance with G.O.Ms.No.42, dated 27.05.2005. The petitioner, however still not satisfied, sought that the entire period of service should be taken into consideration. In this connection, the petitioner had sent a representation on 06.06.2019. Let me not enter into any further discussion on the merits of the representation given by the petitioner herein, but rather, direct the 2nd respondent to address the same.



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(5) There is always every possibility of the representation of the petitioner being lost in the office of the 2nd respondent. Therefore, it would only be advisable that the petitioner gives a fresh representation enclosing the earlier representation. This would indicate that the orders should be passed within a period of twelve weeks from the date of receipt of the fresh representation from the petitioner herein. The 2nd respondent may keep into consideration, the judgment of the Hon'ble Supreme Court, the effect of G.O.Ms.No.42, Transport [RW] Department, dated 27.05.2005, mentioned above and balance the same with the request of the petitioner that service should be counted from the date of his initial entry into service for the purpose of calculating pension.

(6) The writ petition stands **disposed of**. No costs.

23.08.2023

AP

Internet : Yes

To

1.The Additional Chief Secretary



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Transport Department
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2.The Managing Director
Tamil Nadu State Transport Corporation
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C.V.KARTHIKEYAN, J.,

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