



W.P.(MD) No.584 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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M.Sivaprakash

... Petitioner

-VS-

1.The District Education Officer,
The District Educational Office,
Campus of Government Higher Secondary School (Boys)
Sankarankovil, Tenkasi District

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings dated 13.09.2019 vide Na.Ka.No. 1700/A1/2019 passed by the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to prepare the revised pension proposal with inclusion of half of his earlier service of the petitioner rendered by him in the 2nd respondent (ie. From 07.06.1986 to 31.09.1998) and forward to the office of the Accountant General (Accounts &



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Entitlement), Tamil Nadu for further action.

For Petitioner : Mr.V.Muthuvelan
For Respondents : Mr.J.Ashok for R1
Mr.K.Sathiya Singh for R2

ORDER

Challenging the impugned order of the first respondent dated 13.09.2019 and for a direction to the 1st respondent to prepare the revised pension proposal with inclusion of half of his earlier service of the petitioner rendered by him in the 2nd respondent (ie. From 07.06.1986 to 30.09.1998) and forward to the office of the Accountant General (Accounts & Entitlement), Tamil Nadu for further action.

2. The learned counsel for the petitioner would submit that the petitioner entered the services of the second respondent Corporation as Conductor on 07.06.1986 and he worked till 1998. Subsequently, he resigned his job in the second respondent and got employment in the first respondent Department as a Teacher and accordingly, he was relieved from the 2nd respondent and joined in the first respondent's school on 07.09.1998 and promoted as Headmaster and subsequently retired in the year 2018. It is



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the grievance of the petitioner that the past services rendered by the petitioner in the 2nd respondent corporation was not counted for pensionable service in the education department. Therefore, the petitioner filed a writ petition in WP(MD) No.3741/2019 and this Court disposed of the said writ petition by directing the respondents therein to consider the representation of the petitioner and pass appropriate orders, pursuant to which, the present impugned order has been passed by the 1st respondent, challenging which, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is entitled for terminal and other benefits for the services rendered in the 2nd respondent corporation from 07.06.1986 to 30.09.1998. It is his further case that the petitioner's services in the 2nd respondent corporation has to be calculated for the purpose of pensionary benefits, since the petitioner, after obtaining necessary permission, got employment in the first respondent department. He would further submit that the petitioner is also a member of Pension Fund Trust and therefore, prays for appropriate direction.



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4. The learned Additional Government Pleader for the first respondent, by relying upon the counter affidavit, would submit that there is no provision in the Tamil Nadu Pension Rules, 1978 to count the services rendered in the 2nd respondent corporation. As per Rules 11 and 12 of the said Rules, the qualifying services rendered in the Government and paid by the Government alone would be calculated for pensionable services and as such there is no question of counting the half of the services rendered by him in the second respondent corporation.

5. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel for the 2nd respondent.

6. Admittedly, the petitioner was a Conductor in the second respondent Corporation from the year 1986 till 1998. Subsequently, he was appointed as a Teacher in the first respondent department and promoted as Headmaster and retired in the year 2018. The grievance of the petitioner appears to be that his half of the past services rendered in the 2nd respondent



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corporation is to be counted for the purpose of pensionable service.

However, the fact remains that the petitioner confused himself with regard to pensionable service in the respondent departments. Since because the petitioner has obtained permission from the second respondent and joined in the 1st respondent department, it doesn't mean that his half of the services rendered in the second respondent corporation has to be calculated for the purpose of pension. The second respondent is governed by the Pension Fund Rules, whereas the first respondent is governed by the Tamil Nadu Civil Servants Rules. However, the fact remains that if at all the petitioner is entitled for any benefits as per the Pension Fund Rules, the petitioner has to approach the transport corporation for settlement of terminal benefits. In the contrary, approaching the education department for inclusion of half of his past services in the transport corporation is not sustainable one. The issue arises in the present case is settled by the Apex Court in ***Palure Bhaskar Rao and others v. P.Rameseshaiah and others (2017) 5 SCC 783***.

6. In view of the above settled legal position rendered by the Apex Court, the prayer that has been sought for cannot be granted. However



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considering the limited request made by the learned counsel for the petitioner, the second respondent is directed to dispose of the eligible benefits to the petitioner within a period of six weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of with the above direction. No costs.

23.01.2023

NCC : Yes/No
Index : Yes/No

RR

To

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2.The Managing Director,
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M.DHANDAPANI, J.

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