



**W.P.(MD) No.9369 of 2020**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED :09.01.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

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G.Sankaran

... Petitioner

-VS-

1.The Government of Tamil Nadu  
Rep. By its Secretary  
School Education Department,  
Chennai.

2.The Director of School Education,  
College Road, Chennai.

3.The Chief Educational Officer  
Tiruchirappalli.

4.The Joint Director,  
Directorate of Pension payment  
Integrated Finance Department,  
571 Anna Salai  
Nandanam, Chennai.

5.The Managing Director,  
Tamil Nadu State Express Transport Corporation,  
Pallavan Road,Chennai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to include the petitioner's 24 years of service rendered in the Tamil Nadu State Express Transport Corporation, for calculating the petitioner's



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pensionary benefits for his retirement on superannuation in the school education department.

For Petitioner : Mr.S.Muthukrishnan  
For Respondents : Mr.S.Saji Bino  
Special Government Pleader

### **ORDER**

The writ petition has been filed for a direction to the respondents to include the petitioner's 24 years of service rendered in the Tamil Nadu State Express Transport Corporation, for calculating his pensionary benefits for his retirement on superannuation in the school education department.

2.The learned counsel for the petitioner would submit that the petitioner was appointed as a Conductor in the 5<sup>th</sup> respondent Corporation on 20.09.1988. He served in the Corporation for nearly 24 years. While so, he was selected to the post of BT Assistant and he was issued with the proceedings to join duty on 26.12.2011 in the Government Boys Higher Secondary School, Kumarapalayam, Namakkal District. In order to join the said post, the petitioner approached the 5<sup>th</sup>



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respondent Corporation by way of a representation for relieving him from the Corporation. However, he was informed by the 5<sup>th</sup> respondent to submit his resignation. In that case, it is the case of the petitioner that he will lose his service benefits and hence, the petitioner filed a writ petition before this Court. This Court directed the petitioner to submit his resignation. Accordingly, he submitted his resignation on 04.06.2012 and joined duty in the school education department on 05.06.2012. He attained the age of superannuation on 31.05.2018. The petitioner has 24 years of service in the 5<sup>th</sup> respondent corporation and 6 years in the school education department and therefore, he is entitled for pensionary benefits. Claiming pensionary benefits, the petitioner approached the respondents for grant of pensionary benefits. However, the 4<sup>th</sup> respondent stated that since the Government has taken a policy decision to the effect that the employees joined after 01.04.2003 are not entitled for pension and their contribution is only to contributory pension scheme (CPS), the petitioner, who joined after 01.04.2003, i.e., on 05.06.2012, is not entitled to any pension.

3. It is the further case of the petitioner that since the 5<sup>th</sup>



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respondent is a Government undertaking, the service of the petitioner in the Corporation as Conductor for 24 years is necessarily to be calculated for calculating pension as per G.O.Ms.No.42 dated 27.05.2005 [as per the said G.O., the transport employees are eligible for pension], as if the petitioner is continuing in the Government service in the education department, on par with the employees of the Government undertakings, ie., TWAD Board, Housing Board, Electricity Board etc. For calculating the services, the petitioner made a representation to the Joint Director of Pensions, on 08.03.2018. However a reply dated 13.03.2018 was received stating that he has to approach the school education department. The petitioner accordingly approached the fourth respondent by way of representation on 14.05.2018 and since the same is not considered so far, the petitioner is before this Court with this writ petition.

4. The learned Special Government Pleader by relying upon the counter affidavit would submit that the 5<sup>th</sup> Corporation is not a Government Department and is only a Corporation from the year 1972 and the employees are only transport employees. He would further urge that the petitioner is only a transport corporation employee and there is



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no specific scheme for conferring the retiral benefits and they are subsequently governed by the Employees Pension Fund Rule, which is approved by the Government on 15.12.2000. Hence, it is his contention that the petitioner has to necessarily approach the respondent Corporation, where he resigned his post of Conductor. He would further contend that an employee is eligible for pension only when his service must be with the Government, his employment is substantive and permanent and for the service rendered, he must be paid by the Government. He further contended that since the petitioner served only 6 years in the respondent education department, he is not entitled to be considered.

5. The fact that the petitioner worked for 24 years as a Conductor in the respondent Corporation and got employment in the school education department in the year 2012 after he tendered his resignation from the respondent Corporation are not in dispute. Likewise, the respondent Corporation is only a Corporation and an employee in the respondent Corporation and an employee in the school education department are different and their services are governed by the Rules and



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Tamil Nadu Civil Servants Rules are also different. When both the services are different, the petitioner is not considered to be in continuous employment under the school education department, after his resignation from the respondent transport corporation. As far as the petitioner is concerned, his service under the Government is for a period of six years and hence, he is not entitled to be considered for pension. It is also pertinent to note here that employees, who entered service after 01.04.2003 are not entitled for pension as per the policy decision of the Government. Contrarily, the petitioner is entitled only for contributory pension scheme as per the scheme in vogue. It is also to be seen that unless there is a provision available for inclusion of his service rendered in the transport corporation, the petitioner is not eligible/entitled to claim the services rendered for calculating his pensionary benefits. 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 his past services in the education department is not sustainable one. The issue arises in the present case is settled by the Apex Court in ***Palure Bhaskar Rao and***



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***others v. P.Rameseshaiah and others (2017) 5 SCC 783.***

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6. In view of the above settled legal position rendered by the Apex Court, the prayer that has been sought for cannot be granted. Accordingly, the writ petition fails and the same is accordingly dismissed. No costs.

**02.01.2023**

NCC : Yes/No

Index : Yes/No

Internet : Yes

RR

To

1.The Secretary

School Education Department,  
Chennai.

2.The Director of School Education,  
College Road, Chennai.

3.The Chief Educational Officer  
Tiruchirappalli.

4.The Joint Director,  
Directorate of Pension payment  
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**M.DHANDAPANI, J.**

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