BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.57 of 2015
and
M.P.(MD)No.1 of 2015

The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited
Represented by its Managing Director
Trichy ...Appellant

/Vs./

1.Chinnappa

2.The Administrator
Tamil Nadu State Transport Corporation
Pension Fund Trust
Thiruvalluvar House
Chennai 600 002 ...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P(MD).No.11796 of 2011 dated 26.02.2014 and dismiss the above writ petition.

For Appellant : Mr.D.Sivaraman

For R1 : Mr.V.R.Arunkumar
For Mr.S.Arunachalam

For R2 : No appearance

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH , J.)**

The writ petitioner/ respondent 1 in this appeal was successful before the learned Single Judge and secured order dated 26.02.2014 whereunder a writ of mandamus has been issued directing the respondents to treat the entirety of his services from 02.12.1999 to 31.08.2009 as pensionable service and to pay him pension under Tamil Nadu Transport Corporation Employees' Pension Fund Rules (TNTCEPF Rules) with arrears and applicable interest.

2.The issues that arise for determination in this writ appeal are two fold. The first relates to the manner by which the pensionable service is to be reckoned, that is whether the date of commencement of service would be the date of membership of the employee or the date of his regularization. In the present case, the relevant dates are 24.08.2000, being the date of regularization of the first respondent as against 02.12.1999 being the date of membership. By a series of decisions passed by the Division Bench of our High Court viz. (i) order dated 04.07.2008 in W.A.No.663 of 2007 (ii) order dated 20.04.2010 in W.A(MD).No.94 of 2010 and (iii) order dated 03.09.2018 in W.A.No. 967 of 2018, the position has been settled to the effect that the date of membership of the employee would be the relevant date and not the date of his regularization.

3. Thus, the order of the learned Judge to the effect that the period between 02.12.1999 to 31.08.2009 will be taken to be pensionable service is in order and confirmed. The second issue relates to rounding-off of the period of.

4.The entitlement to superannuation pension is conditional upon the employee having completed 10 years of service in terms of Rule 16, the relevant portion of which reads thus:

> *"16.Monthly Member's Pension:*
> *(a)A member shall be entitled to*
> *(i)Superannuation Pension, if he has rendered as qualifying service of 10 years or more and retires on attaining the age of 58 years or the retirement age that may be fixed by the employer."*

5.The petitioner would complete 10 years of service on 12.12.2009. However, he has superannuated on 31.08.2009.

6.Rule 13 of Tamil Nadu Transport Corporation Employees' Pension Fund Rules deals with "Determination of eligible service" and reads as follows:

"13.Determination of Eligible Service:

The eligible service shall be determined as follows:

(a)In the case of a "New Entrant" entering into service on or after 01.09.1998, the "actual service" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more shall be treated as one year and the service less than six months shall be ignored.".

7.By application of the above rule, the period between 01.09.2009 and 02.12.1999 would be rounded off and the entirety of 10 years service is available to the employee.

8.In light of the above discussion, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.,] & [R.V.J.,]
17.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
msa

DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

msa

Order made in
W.A.(MD)No.57 of 2015
and
M.P.(MD)No.1 of 2015

Dated:
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