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W.P.No.8436 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.03.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.8436 of 2021 and
W.M.P.No.8977 of 2021 and
W.M.P.No.5369 of 2024

A.Edwinpaul Sundaraj

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Transport Department,
Secretariat, Chennai 600 009.

2.Tamil Nadu State Transport Corporation,
(Villupuram Division-II) Ltd.,
(Old Name Pattukottai Azhagiri Transport Corporation Ltd.,)
Rep by its Managing Director,
Rangapuram, Vellore Region,
Vellore 632 009.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to sanction and pay pension to the petitioner with effect from 01.01.1988 as per G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2005 and as per the provisions of the Tamil Nadu Pension Rules construing that the petitioner has completed the qualifying years of service of 10 years by following the order passed in W.A.No.1752 and 1827 of 2009 dated



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24.10.2010 and followed in issuing the G.O.3D.No.28, Transport (RW1) Department dated 11.07.2011 and in W.P.(MD) No.3517 of 2008 dated 31.03.2010 confirmed by the Division Bench in W.A.(MD) No.381 of 2011 dated 09.04.2011 and the Hon'ble Supreme Court of India in SLP (CC) No.1660 of 2012 dated 03.02.2012 and followed in issuing G.O.(3D) No.19, Transport (RW1) Department dated 25.06.2012.

For Petitioner : Mr.V.S.Jagadeesan

For Respondents : Mrs.S.Pavithra, Standing Counsel for R2
Mr.S.Arumugam, GA for R1

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the first respondent to sanction and pay pension to the petitioner with effect from 01.01.1988, construing that the petitioner has completed 10 years of qualifying service, as per the Government Orders and judicial pronouncements passed in this regard.

2. Heard Mr.V.S.Jagadeesan, learned counsel for the petitioner, Mr.S.Arumugam, learned Government Advocate for R1 and Mrs.S.Pavithra, learned Standing Counsel for R2.

3. The claim of the petitioner is that he has been initially appointed as a Driver with the then State Transport Department on 09.07.1966.



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However his services have been regularised with effect from 01.08.1970.

Later, when the Transport Department was converted into Transport Corporation, the employees who have been employed with the Department before 01.04.1975 have been given with the pensionary benefits in terms of G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2005.

4. The grievance of the petitioner is that if his qualifying service was counted from initial date of appointment (i.e.,) 09.07.1966, he would have got the qualifying services of more than 10 years. As his services have been counted from 01.08.1970, from which date he was regularised he has got the qualifying service calculated as nine years and five months.

5. However, the learned Government Advocate for the first respondent submitted that G.O.Ms.No.42 stipulates a condition that the qualifying service should be computed only from the date of permanent absorption in the said Transport Department and hence, the petitioner's earlier period of service on temporary basis cannot be included.



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6. Similar issue came for consideration before this Court in W.P. (MD) No.3517 of 2008 in which an order has been passed on 31.03.2010 by allowing the computation of qualifying service for pension from the date of initial appointment irrespective of the fact whether it was on temporary basis. In fact the order has attained finality upto the Hon'ble Supreme Court. Subsequently, the order has been implemented in respect of the petitioner of that Writ Petition in G.O.3D.No.19 dated 25.06.2012.

7. In fact, Clause 5 of G.O.Ms.No.42 dated 27.05.2005 itself got quashed by the order of this Court in W.P.No.30820 of 2008 dated 04.03.2014. The appeal filed by the respondent Corporation against the said order in W.A.No.1752 of 2014 also upheld the order quashing Clause 5 of above said Government Order.

8. In view of the above stated facts and the legal position, there need not be any hurdle for the respondents in computing the petitioner's past services from 09.07.1966 to 01.08.1970 for calculating the



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qualifying service of the petitioner in order to bring him under the ambit of pension scheme.

9. In view of the above stated reasons, this Writ Petition is disposed and the respondents are directed to pass appropriate orders by computing the qualifying service of the petitioner from 09.07.1966 and pass orders for sanction and disbursement of pension eligible to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To



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R.N.MANJULA, J.

gsk

1.The Secretary,
Transport Department,
Secretariat, Chennai 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division-II) Ltd.,
(Old Name Pattukottai Azhagiri Transport Corporation Ltd.,)
Rangapuram, Vellore Region,
Vellore 632 009.

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