



WEB COPY



W.P.No.8913 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8913 of 2022

C.Ganesh

...Petitioner

-Vs-

1. The State of Tamilnadu represented by its
Additional Chief Secretary to Government,
Home (Transport-II) Department,
Secretariat, Chennai-600 009.
2. The Transport Commissioner,
Chepauk, Chennai-600 005.
3. The Managing Director,
Tamilnadu Government Transport,
Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem-636 007.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to consider the request contained in the representation of the petitioner dated 04.03.2022 to include his service rendered with the 3rd respondent also for the purpose of pensionary benefits to the petitioner within a specified period.



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For petitioner : Mr.A.Ganesan

For respondents 1 & 2 : Mrs.R.L.Karthika
Government Advocate

For respondents 3 : Mr.K.Raja
Standing Counsel

ORDER

This writ petition has been filed for direction to the first respondent to consider representation submitted by the petitioner seeking to include his service rendered with 3rd respondent also for the purpose of pensionary benefits.

2. The petitioner was appointed as Assistant Foreman in the office of the 3rd respondent on 27.07.1979. He had worked till 09.01.1988, he resigned from the said post due to selection to the post of Motor Vehicle Inspector Grade II through Tamilnadu Public Service Commission in the office of the 2nd respondent. Accordingly, the petitioner was relieved and joined in the office of the 2nd respondent as Motor Vehicle Inspector Grade-



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II on 14.01.1988. Subsequently, he was promoted to the post of Motor Vehicle Inspector Grade-II and finally he was promoted to the post of Deputy Transport Commissioner-I. Thereafter, he was retired from his service on 30.09.2011 on attaining the age of superannuation. However, his erstwhile service under the 3rd respondent was not considered for his pensioary benefits. Therefore, the petitioner submitted representation dated 04.03.2022.

3. The second respondent filed counter and stated that the petitioner failed to obtained No Objection Certificate from the 3rd respondent to apply for the post of Motor Vehicle Inspector Grade-II through TNPSC. The petitioner simply resigned from the post of Assistant Foreman on 09.01.1988 and thereafter on 14.01.1988 had joined in the post of Motor Vehicle Inspector Grade-II in the office of the 2nd respondent. Further he also failed to obtain any permission to apply for the said post from the 2nd respondent. The Rule 41 of the General Rules for Tamilnadu State and Subordinate Service now Section 49 of the Tamilnadu Government Servants (Conditions of Service) Act, 2016 (Tamilnadu Act 14 of 2016) reads as follows:



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"Consequence of resignation – A member of a service shall if he resigns his appointment forfeit not only the service rendered by him in the particular post held by him at the time of resignation but all his previous service under the Government."

As per the proviso to rule 23(1) of the Tamilnadu Pension Rules, a resignation shall not entitle forfeiture of past service, if it has been submitted to take up with proper permission, another appointment."

4. The 3rd respondent filed counter and stated that immediately, after his resignation from the 3rd respondent a sum of Rs.9507/- towards Provident Fund have been settled to the petitioner on 14.05.1988 itself. He was also settled sum of Rs.5984/- towards gratuity on 01.03.1988. Further, there was no pension scheme in the 3rd respondent corporation at the time of his resignation. The Tamilnadu State Transport Corporation Employees' Pension Fund Rules was introduced with effect from 01.09.1998 for all the employees of the establishment who are on rolls as on 01.09.1998 or employed after that date. Therefore, the petitioner was not an employee of the 3rd respondent corporation as on 01.09.1998 or employed after that date and also members of the Employee Provident Fund Scheme. Even assuming that the said rules is application to the petitioner as per Rule 16(e)



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of the Tamilnadu State Transport Corporation Employees' Pension Fund

Rules, the service of the petitioner was forfeited on his resignation.

Accordingly, the resignation from service or post entails forfeiture of past service.

5. The petitioner resigned his job without obtaining proper permission from the authorities, the count of any portion of his previous service for any benefits or concession shall not be entitled under any rule or order. In this case, the petitioner has not obtained proper permission from the Tamilnadu State Transport Corporation Limited, Salem and resigned the post at his will. That apart, the petitioner made request after a period of 11 years from the date of his retirement to include his erstwhile service for the purpose of pensionary benefits. Therefore, the request made by the petitioner cannot be considered. This writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

27.02.2024

Index : Yes/No



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Internet: Yes/No
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G.K.ILANTHIRAIYAN,J.
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To

1. The State of Tamilnadu represented by its
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Secretariate, Chennai-600 009.
2. The Transport Commissioner,
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