



WEB COPY



W.P.No.9916 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9916 of 2024

M.Vijayan

... Petitioner

-Vs-

1. The Managing Director

Tamilnadu State Transport Corporation (Salem) Limited,
Dharmapuri Region,
No.12, Ramakrishna Road,
Salem 636 007.

2. The Administrator,

Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai,
Chennai 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, Calling for the reocrds relating to the order Ka.No.CO2 /W.P.23256/2016/ TNSTC/2023 dated 31.08.2023 of the first respondent quash the same and consequently direct the respondent to grant pension for the service rendered with the first respondent.

For Petitioner : Mr.S.T.Varadarajalu

For R1 : Mr.K.Raja

Standing Counsel

For R2 : Mr.C.S.K.Sathish

ORDER



W.P.No.9916 of 2024

This writ petition has been filed challenging the order passed by the first respondent dated 31.08.2023, thereby rejected the request made by the petitioner seeking pension.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner had joined in the service of the first respondent as Assistant Tradesman in the year 1985. Due to unauthorized absence, the respondents had initiated disciplinary proceedings as against the petitioner and he was removed from service on 17.07.1995. Thereafter, on mercy ground and also on the settlement, the petitioner was appointed as Junior Tradesman as new entrant. The petitioner had joined duty on 23.06.1998. Thereafter, his service was regularized from 24.03.2000. He had attained the age of superannuation and retired from service on 28.02.2010. He had completed his service below 10 years. Therefore, the petitioner was not granted any pension. Hence, the petitioner submitted a representation and the same was not considered. After direction issued by this Court in W.P.No.23256 of 2016, by an order dated 21.06.2022, the first respondent considered the representation submitted by the petitioner and rejected the request made by the petitioner seeking pension.



W.P.No.9916 of 2024

Hence, this writ petition.

WEB COPY

4. The learned counsel for the petitioner would submit that the petitioner's initial service have to be counted for at least pension purpose. As per Rule 2(P)(iii) of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, 1998, the actual pensionable service will be 11 years and 5 months. Further, as per Rule 16 (a)(i) of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, 1998, for superannuation pension 10 years is sufficient to get pension. However, the petitioner's service was taken into account only from the date of his regularization of his service and he was denied pension.

5. The learned counsel for the second respondent would submit that the petitioner was removed from service on 17.07.1995. On the ground of mercy and also settlement, the petitioner was given employment as new entrant on 28.05.1998.

6. A perusal of the appointment order of the petitioner is also very clear that his past service rendered in the Corporation shall not be accounted for any purpose and he shall not claim any benefits for his past services and the



W.P.No.9916 of 2024

petitioner was allowed to join as new entrant.

WEB COPY

7. Further, admittedly, the petitioner had completed only 9 years and 7 months. As per clause 16 of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, 1998, a member shall be entitled to superannuation pension, if he had entered qualified service of ten years or more and retires on attainment of age of 58 years or in the retirement age may be fixed by the employer. That apart, the petitioner had already received all the benefits for his earlier service. Further, as per Rule 13A of the the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, 1998, 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.

8. The petitioner was re-employed from 23.06.1998. The above said Rule is applicable in the case of “New Entrant” entered into service on or after 01.09.1998. Therefore, the above said Rule is not applicable to the case of the petitioner, since he had joined duty on 23.06.1998. The petitioner had rendered



W.P.No.9916 of 2024

only 9 years and 7 months and 10 days of net qualified service and as such, the petitioner is not included for pension as per the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, 1998.

9. Therefore, the request made by the petitioner was rightly rejected and this Court finds no infirmity or illegality in the order passed by the first respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

25.07.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

mn

To



W.P.No.9916 of 2024

1. The Managing Director
Tamilnadu State Transport Corporation (Salem) Limited,
Dharmapuri Region,
No.12, Ramakrishna Road,
Salem 636 007.

2. The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai,
Chennai 600 002.

W.P.No.9916 of 2024

25.07.2024