IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

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

W.P.No.22811 of 2022
and W.M.P.No.21842 of 2022

P.Periasamy ... Petitioner

-Vs-

1. The Managing Director,
Metropolitan Transport
Corporation (Chennai) Ltd.,
Pallavan Illam,
Anna Salai, Chennai-600 002.

2. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
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 Certiorarifed Mandamus, calling for the records pertaining to the order dated 11.01.2022 of the first respondent and quash the same and consequently direct the first respondent to include the service rendered with Transport Department from 24.08.1968 to 30.04.1975 as pensionable service for calculating pension and further direction to the second respondent to revise the pension of the petitioner by taking note of his entire service from 24.08.1968 to 30.06.2000.

For Petitioner	:	Mr.S.T.Varadarajalu
For R1	:	Mr.R.Balaji Standing Counsel
For R2	:	Mr.C.S.K.Sathish Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 11.01.2022, thereby rejected the request made by the petitioner to consider their service rendered from 24.08.1968 to 30.04.1975 as pensionable service for calculating 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 Transport Department as a Driver on 24.08.1968. When the Transport Corporation was formed, the petitioner was deputed to the first respondent Corporation, in the year 1975. On 13.07.1990, he was promoted as Driving Instructor. Thereafter, he retired from service on 30.06.2000, after attaining the age of superannuation. In the pension order, his service was shown as 25 years. The service rendered in the

Government Department was not included while calculating pension. After his retirement, the respondents paid his terminal benefits, employer contribution of Provident Funds and a sum of Rs.1,50,819.00/- was deducted from the petitioner's terminal benefits, for the period from 24.08.1968 to 30.04.1975.

4. By the letter dated 30.05.2001, he was directed to pay the following amount to sanction full pension.

a. Employer contribution of P.F.amount	= Rs.50,491.00
b. Interest for the above amount	= Rs. 5,198.00
c. Loan amount with interest	= Rs.72,398.00
d. Family pension arrears	= Rs.22,732.00
	Rs.1,50,819.00

The said amount was adjusted from his terminal benefits. However, those period viz., 24.08.1968 to 30.04.1975 was not taken into consideration for calculating his pension.

5. A perusal of Rule 2 (p)(ii) Tamil Nadu State Transport Corporation Employees Pension Fund revealed that in respect of erstwhile Tamil Nadu State Transport Department employees, who were not eligible for pension for the service rendered in the State Transport Department, such service will be

counted taking a compassionate view for arriving pensionable service, provided they remit back the service gratuity or any benefit in lieu of pension together with interest compounded annually calculated at the rate of interest declared for the members by the PF Trust of respective STUs for the respective years to provide pension for TNSTD service.

6. Accordingly, at the time of settling the retirement benefits, a sum of Rs.1,50,819/- was deducted from the petitioner's terminal benefits. Without considering the same, the request made by the petitioner was rejected by the impugned order dated 11.01.2022, on the ground that the terminal benefits, employer contribution of Provident Fund, for the period from 24.08.1968 to 30.04.1975 was already deducted from the terminal benefits of the petitioner. Therefore, he is entitled for pension by calculating the service rendered by the petitioner with the Transport Department from 24.08.1968 to 30.04.1975.

7. In view of the above, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the order passed by the first respondent dated 11.01.2022, is hereby quashed. The first respondent is directed to include the service rendered by the petitioner with the Transport Department from

24.08.1968 to 30.04.1975 as pensionable service for calculating pension and disburse the arrears of pension, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

19.01.2024

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

G.K.ILANTHIRAIYAN. J,

mn

To

1. The Managing Director,
   Metropolitan Transport
   Corporation (Chennai) Ltd.,
   Pallavan Illam,
   Anna Salai, Chennai-600 002.

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

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