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W.P.No.25756 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

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

W.P.No.25756 of 2022

T.A.Joseph Charli

...Petitioner

-Vs -

1. The Management of Tamilnadu State
Transport Corporation (Kovai) Ltd.,
Erode Region,
Rep. by its Managing Director,
Erode.

2. The Administrator,
Tamil Nadu State Transport Employee's
Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai – 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to treat the entire service period of the petitioner from 31.05.1986 to 31.08.2019 as his pensionable service under TNSTCEPF rules and to pay him full pension, along with arrears of pension from September, 2019 after adjusting the amount already paid to him, together with interest at the rate of 16% p.a.

For Petitioner : Mr.V.Ajoy Khose



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W.P.No.25756 of 2022

For Respondents

For R1 : Mr.M.Murali Vinod

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

ORDER

This writ petition has been filed for direction to direct the respondents to treat the entire service period of the petitioner from 31.05.1986 to 31.08.2019 as his pensionable service under the Tamil Nadu State Transport Corporation Employee's Pension Fund Rules (hereinafter referred to as “TNSTCEPF Rules”) and to pay him full pension, along with arrears.

2. The petitioner had joined in the service of the first respondent corporation as Company Trainee-ITI (Electrician) with effect from 30.05.1986. He was given wages and his contribution to Employee's Pension Fund was also deducted from his wages from the month of July 1986. He was made permanent on 30.11.1987. When he was working as Junior Trademan, there were vacancies to the post Junior Engineer, which could be filled up only by the in-service candidates, who were required educational qualification. Since the petitioner was having the required qualification of Diploma in Electrical and Electronic Engineering, he applied for the said post. He was selected by the first respondent to the



W.P.No.25756 of 2022

post of Junior Engineer and he was issued with appointment order dated 13.06.1992. Immediately, he resigned the post of Junior Trademan and joined in the post of Junior Engineer and he continued in the service of the first respondent.

3. Further the petitioner's Employee's Pension Fund (EPF) account from the date of joining in the service of the first respondent viz., on 30.05.1986 with account No.3343, had not been closed and the same was continued even after the joining in the post of Junior Engineer without any change. Thereafter, he was promoted as Selection Grade Senior Assistant Engineer. After completion of 33 years of service, he was retired from service on 31.08.2019 under voluntary retirement scheme. The petitioner now being paid with pension by calculating 26 years of service only. The earlier service of the petitioner was not considered by the first and second respondents to grant pension. Hence, the petitioner approached this Court by way of this writ petition.

4. The learned counsel appearing for the petitioner submitted that Rule 16(e) of the TNSTCEPF Rules reads as follows:-

“16. Monthly Member's Pension:-



W.P.No.25756 of 2022

.....

(e) Forfeiture of Service on Resignation :-

Resignation from service or post entails forfeiture of past services.

Provided that a resignation shall not entail forfeiture of past service, if it has been submitted to take up with proper permission, another appointment, under Government Department/State Public Sector Undertaking/Board. In such case, the pensionary benefits shall be transferred to the new employer's pension fund/EP Scheme 1995, as the case may be, and such benefits shall not be directly paid to the individual”

Therefore, the past service of the petitioner has to be taken into account for his pensionary benefits. He also relied upon the judgment of this Court passed in ***W.P.No.24944 of 2018*** dated 01.08.2019 in the case of ***J.Sridharan Vs. The State of Tamil Nadu and ors.***, which held that the entire claim of the petitioner, as per Rule 16(e) of the TNSTCEPF Rules and facts of the case would squarely place the petitioner's claim within the ambit of Rule 16(e) of the TNSTCEPF Rules.

5. The learned counsel appearing for the respondents submitted that the petitioner had resigned from his service as early as on 13.06.1992 and he joined in the post of Junior Engineer on 26.06.1992. There was a



W.P.No.25756 of 2022

break in service and therefore, the earlier service of the petitioner cannot be taken into account for calculating the pensionary benefits. He further submitted that the petitioner was put on notice in the appointment order dated 13.06.1992 that the past service of the petitioner would not be considered for any purpose.

6. Heard the learned counsel on either side and perused the materials available on records.

7. Admittedly the petitioner joined in the first respondent corporation on 30.05.1986 and Employee's Pension Fund was also deducted from his wages. Thereafter the petitioner was selected to the post of Junior Engineer and he joined in the said post with short break of six days in the first respondent corporation. Further the petitioner was not being posted to any other organization or other government service, but within the same corporation service itself. Therefore, the petitioner's claim within the ambit of Rule 16(e) of the TNSTCEPF Rules and the petitioner cannot be denied his past service for his retirement and pensionary benefits.



W.P.No.25756 of 2022

8. In view of the above discussions, the respondents are directed to treat the petitioner's entire service period from 31.05.1986 to 31.08.2019 as his pensionable service and to revise the pensionary and retirement benefits and pay the revised pension and arrears if any, along with interest at the rate of 6% (six percent) per annum within a period of eight weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands allowed
There shall be no order as to costs.

01.02.2024

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

rts



W.P.No.25756 of 2022

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