



W.P.(MD)No.13060 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.08.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13060 of 2022

B.Chandrasekaran Nair

... Petitioner

VS

1.The Managing Director,
Tamil Nadu State Transport Corporation Tirunelveli Ltd.,
Tirunelveli.

2.The General Manager,
Tamil Nadu State Transport Corporation Tirunelveli Ltd.,
Ranithottam,
Nagercoil – 629 001.
Kanyakumari.

3.The Administrator,
Tamil Nadu State Transport Corporation Employees Pension Trust,
Thiruvallur House,
Pallavan Salai, Chennai – 600 002.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the third respondent letter made in 13929-2021/சட்டம்.2/தகுப்பாகபஓநிபொ/2021/486 dated 02.12.2021 and quash the same as illegal consequently direct the respondents to give all other monitory benefits to the petitioners forthwith.

For Petitioner : Mr.N.S.Ramakrishna Dass



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For Respondents : Mr.D.Jebaraj,
Standing Counsel for R1 and R2
Mr.S.C.Herold Singh
Standing Counsel for R3

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ORDER

The instant writ petition has been filed by a retired Driver of the respondents/Transport Corporation challenging the order passed by the Authorities, wherein, his pensionary service was calculated only from the date of confirmation of service and not from the date on which he became a member of the Pension Fund Scheme.

2. It is an admitted fact that the petitioner herein was initially appointed on 20.12.1984 and he was terminated from service on 02.09.1994. However, he was reinstated on 02.05.1995 without continuity of service and without backwages and after few months from the date on which he has been reinstated, he has become a member under the Employees Provident Fund (EPF) Scheme Pension. On and from 01.09.1998, the Tamil Nadu State Transport Corporation Employees Pension Fund Scheme was introduced to all the employees of the Transport Corporation. The EPF Organisation has granted exemption to the Transport Corporation from mandatorily paying the contribution to the said Organisation by their members. Thereafter, the EPF Organisation has transferred all the contribution amount (that has been remitted to their account)



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to the account of the Pension Fund Scheme.

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3. A perusal of the Rules 2(o) and 2(v) of the Employees Pension Fund Rules indicate that the pensionary service has to be calculated from the date on which an employee become a member of the fund. In this case, it is not in dispute that the petitioner was a member of the EPF Pension Scheme and later, he has been brought under the Transport Corporation Employees Pension Funds Scheme. Therefore, the submission on the part of the Transport Corporation that his pensionary service will be reckoned only from the date on which, he was made permanent and not from the date on which he became a member of the fund is not legally sustainable. However, the disbursement of pensionary benefits as far as the petitioner is concerned, shall be reckoned from the date on which the petitioner was reinstated, that is 02.05.1995 onwards.

4. In this connection, the Hon'ble Division Bench of this Court, under the similar circumstances, in the case of the ***Managing Director, Tamil Nadu State Transport Corporation, Madurai Zone-III vs. M.Thangaiyan in W.A. (MD).No.1006 of 2014 by order dated 22.12.2016***, in paragraph No.8 has held as follows:

“8. The issue involved in this Writ Appeal is no more res integra. Similar issue involved in this Writ Appeal was already



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dealt with by another Division Bench of this Court in the case of the Managing Director, Kumbakonam Vs. N.Jothi and another, W.A.(MD).No.94 of 2010 and in the said judgment, by order, dated, 20.04.2010, this Court by negating the contention raised by the respondents directed the Transport Corporation to calculate the pension amount from the date on which the contribution for employee provident fund was deducted and therefore, we do not find any infirmity or illegality in the order dated 03.04.2013 made in W.P(MD).No.5830 of 2008 passed by the learned Single Judge. Added further, initially, the petitioner was granted pension by the Corporation for a period of five and half years and for the best reasons known to them, it was abruptly stopped, which is only an after-thought of the Corporation. Therefore, we do not find any compelling reasons warranting any interference with the reasoned order passed by the learned Single Judge. Hence, this Writ Appeal is liable to be dismissed and accordingly, it is dismissed. Since the petitioner is in the evenings of his life even at the time of filing the Writ Petition and the matter has been pending for more than seven years before this Court, the respondents/Transport Corporation are directed to comply with the order of the learned single Judge made in W.P(MD).No.5830 of 2008 dated 03.04.2013 and grant pension, including the arrears of amount so far to be payable to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”



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5. In view of the decision rendered by the Hon'ble Division Bench, the impugned order passed by the officials in this Writ Petition is set aside and this Writ Petition stands allowed. The respondents are directed to disburse all the monetary benefits treating his pensionary service from the date on which he become a member of the EPF Pension Scheme, that is 02.05.1995, within a period of three months from the date of receipt of a copy of this order.

This Writ Petition is allowed, with above directions. No costs.

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Index : Yes/No
Internet: Yes/No
apd

To

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R.VIJAYAKUMAR, J.

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