



W.P.(MD)No.16939 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.16939 of 2024

R.Marimuthu

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport,
Corporation (Kumbakonam) Limited,
Kumbakonam-612 001.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to take the petitioner's entire service of 31 years as qualifying service for the purpose of reckoning number of service for the payment of pension and Employees Provident Fund and pay the different amount of pension from the month of June-2022 till the date of revision.

For Petitioner	: Mr.D.Venkatachalam
For R2	: Mr.S.C.Herold Singh Standing Counsel
For R1	: Mr.K.Ramaiah Standing Counsel



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ORDER

This writ petition has been filed directing the respondents to take the petitioner's entire service of 31 years as qualifying service for the purpose of reckoning number of service for the payment of pension and Employees Provident Fund and pay the different amount of pension from the month of June-2022 till the date of revision.

2. Heard Mr.D.Venkatachalam, learned counsel for the petitioner, Mr.S.C.Herold Singh, learned Standing Counsel for the second respondent and Mr.K.Ramaiah, learned Standing Counsel for the first respondent.

3. The petitioner joined as a Driver in the respondent Corporation and retired from service on 31.05.2022 on attaining the age of superannuation. He had worked for 31 years from the date of his joining. The respondent has reckoned only 28 years of service for the purpose of granting pensionary benefits. According to the petitioner he has rendered 31 years of total service and 628 days of his service has been excluded stating that the said period is not the qualifying service for the purpose of pensionary benefits. The period excluded by the respondent is the period, during which the petitioner availed leave for valid reasons.



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4. The law in this regard has already been settled in ***R.Dehivasivagami vs. the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund*** reported in 2013 (4) LLJ 139, in which, it has been held that if any portion of the employee's service is proposed to be excluded, the employee should have been served with prior notice in order to make his submissions. In the instant case, it is claimed by the learned counsel for the petitioner that the petitioner has not been given with prior notice.

5. The petitioner has sought information from RTI. He was given with the information on 28.05.2023 stating that the petitioner's whole service of 31 years is included for gratuity, however for the purpose of pension and provident fund only for 28 years of service have been included.

6. It is not in dispute that petitioner joined as a Driver in the respondent Corporation and got his superannuation on 31.05.2022. He had worked for 31 years from the date of his joining. The respondent has reckoned only 28 years of service for the purpose of granting pensionary benefits, whereas it is the case of the petitioner that he has rendered 31 years of total service and 628 days of his service has been excluded towards non-qualifying service for pensionary benefits.



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7. It is seen that for one of the retirement benefits, the petitioner's whole service has been included and in respect of the other benefits, only 28 years of the petitioner's service has been included. In my opinion, it is not fair on the part of the respondents to cut a portion of an employee's services for considering the pensionary benefits and other benefits like EPF, Gratuity etc.

8. In the light of the above discussion, this writ petition is disposed of, with a direction to the first respondent to consider the representation of the petitioner, dated 21.06.2024 in the light the judicial pronouncement made and referred in this order and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

25.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Managing Director,
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- 2.The Administrator,
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R.N.MANJULA, J.

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