



W.A(MD) No.858 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 15.11.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A(MD) No.858 of 2019

and

C.M.P.(MD)No.7509 of 2019

The Managing Director,
Metropolitan Transport
Corporation Limited,
Chennai.

... Appellant / Respondent No.3

Vs

1.N.Madaswamy (Died)

2.The State of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Fort St.George,
Chennai-600 009.

3.The Secretary,
Finance (Pension) Department,
Fort St.George,
Chennai-600 009.

... Respondents 2 & 3 / Respondents 1 & 2

4.M.Jayakala

5.M.Srikala

(R4 & R5 is impleaded vide order dated 15.11.2024
by this Court in CMP(MD)No.15180 of 2024)

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Latters Patent, praying this Court to set aside the Order dated 27.06.2017 passed in W.P. (MD)No.5433 of 2014.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R2 & R3
: Mr.B.Brijesh Kishore
for R4 & R5

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The writ petitioner Madasamy joined the transport department of the Government of Tamil Nadu on 15.12.1971. The transport department was wound up and the transport corporations were created in the year 1975. The petitioner Madasamy served the corporation and took voluntary retirement with effect from 30.04.1993. He sought pensionary benefits. As per the scheme then obtaining in the corporation, only those persons who had put in government service were eligible to get pension. The cut off date was 01.04.1982. Since by then the petitioner had put in 9 years 7 months 25 days and was below 10 years of service, he was



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denied pension. Challenging the same, Madasamy filed W.P.(MD)No. 5433 of 2014. The learned single Judge followed the order of the Hon'ble Division Bench rendered in W.A.(MD)No.809 of 2010 dated 16.01.2011 in which it was directed that the management should count the services rendered above 6 months as one full year and the writ petitioner was entitled to pension. In this view of the matter, the learned Judge allowed the writ petition. Paragraph Nos.3, 4 & 5 of the order read as follows:-

“3. Though the case of the petitioner with regard to his qualifying service of 9 years 7 months and 25 days is admitted by the respondents in their counter affidavit, the respondents have rejected the claim of the petitioner. This Court in the earlier writ petition filed by the petitioner in W.P.(MD) No.6405 of 2008 dated 29.04.2013, passed the following order:

“5.In such view of the matter, the impugned order deserves to be set aside. Accordingly, the impugned order is set aside and the writ petition is allowed and the matter is remanded to the respondents for fresh consideration and they shall take note of the petitioner's service certificate issued by the third respondent, dated 26.04.1997 from which it is seen that the petitioner has joined the erst while Transport Department, on 15.12.1971 by considering the said certificate, the respondents are directed to pass fresh orders and examine as to



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whether the petitioner should be granted the benefit of pension in accordance with G.O.Ms.No.42, Transport Department, dated 27.05.2005. The petitioner is also directed to furnish a copy of the said certificate dated 26.04.1997 along with a copy of this order to the respondents for fresh consideration. The respondents shall pass appropriate orders as stated above within a period of eight weeks from the date of receipt of a copy of this order. No costs.”

Once again, the respondents have rejected the petitioner's claim by the impugned proceedings. Hence, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner relied upon the judgment of this Court in the case of R.Shamugalakshmi v. The General Manager, Tamil Nadu State Transport Corporation Limited, Karaikudi Region dated 02.11.2016. In this judgment, the learned Single Judge of this Court has allowed a similar writ petition after considering Rule 13 of the TNSTC Employees Pension Fund Rules. The operative of the said judgment is extracted below:

“9.Admittedly, the 9 months service is more than 6 months service and it shall be rounded off. In support of the contention, the petitioner has cited an order of this court made in W.P.(MD) No. 6387 of 2011 dated 27.11.2014 ([N.Subramanian vs. Metro Transport Corporation](#)). In the said order, an identical issue was dealt with and this Court, following the order passed by the Hon'ble Division Bench in W.A.(MD) No.809 of 2010 dated 16.01.2011, has directed the respondent to count the services rendered above 6 months as one full year and further directed to sanction pensionary benefits to the petitioner. The case on hand is also an identical and



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AND
R.POORNIMA, J.

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To

- 1.The Secretary,
Transport Department,
Fort St.George,
Chennai-600 009.
- 2.The Secretary,
Finance (Pension) Department,
Fort St.George,
Chennai-600 009.

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