



W.P.No.8310 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 09.04.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.8310 of 2022

R.Manimaran,

... Petitioner

Vs.

1.The Secretary to Government,
Transport Department,
Fort St. George,
Chennai-600 009.

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

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to claim and pay the life time pension arrears payable to the deceased pensioner G.Rathinam to his legal heirs from 01.04.2009 to 09.10.2019 with interest @ 9% p.a from 01.04.2009.

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For Petitioner : Mr.K.Malaikannu
For Respondents : Mr.L.S.M.Hasan Fazil,AGP -R1
Mr.R.Balaji, Standing Counsel - R2

ORDER

Writ petition is filed for issuance of a Writ of Mandamus, directing the respondents to claim and pay the life time pension arrears payable to the deceased petitioner, G.Rathinam, to his legal heirs from 01.04.2009 to 09.10.2019, with interest at 9% per annum.

2. The petitioner's deceased father, G.Rathinam, was initially appointed as a daily wage driver, on 16.10.1971. He was later deputed to Pallavan Transport Corporation, on 01.01.1972. On 01.11.1972, the deceased employee's services were regularised in the time scale of pay of Rs.185-5-240. The deceased employee opted for voluntary retirement and the same was accepted and he was relieved on 30.06.1991. While so, the Government in G.O.No.42, Transport (R.W) Department, dated 27.05.2005, issued orders for pension for the employees of the Erstwhile Tamil Nadu State Transport Department. As the deceased employee completed 10 years of service as on 01.04.1982, he requested the



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respondents to pay the arrears of pension as per G.O.No.42, dated 27.05.2005, from 01.01.1998. In spite of the said G.O passed by the Government, the petitioner's father was not paid pension, on the ground that he had not completed the requisite qualifying service of 10 years of service. Whiles, the petitioner's father on 16.02.2009, filed claim petition in C.P.No.27 of 2009, claiming arrears of pension from 01.01.1988 to 31.03.2009. The Labour court vide order dated 02.06.2011, in C.P.No.27 of 2009 allowed the claim petition and directed the respondents to pay the computed pension arrears of Rs.3,56,846/-along with the interest at the rate of 12% per annum, from 19.03.2007. Against the order of the Labour Court, the respondents filed a writ petition in W.P.No.1003 of 2013, which was dismissed on 13.02.2017. Thereafter, the petitioners father died on 09.10.2019, and even during his life time, petitioner's father submitted a representation to the 2nd respondent, requesting him to pay the monthly pension with arrears for the period from 01.04.2009, till date. As the said request was not considered, the petitioner's father filed W.P.No.20088 of 2019. The writ petition was closed with liberty to the petitioner to submit a representation to the respondents seeking pension arrears as the legal heirs of deceased employee. The petitioners thereafter submitted a representation on 11.12.2019, but the same was



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not considered. Under the circumstances, the petitioner filed above writ petition

WEB for the aforesaid relief.

3. The respondents filed a counter denying the deceased employee's entitlement for pension on the ground that he had not put in 10 years of pensionable service. The respondents relying on Section 43(2) of Tamil Nadu Pension Rules, submitted that the Government servants who had not put in 10 years of service were not entitled for pension. The respondents submitted that even as per G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2005, the petitioner's father was not eligible, as he did not possess the net qualifying service of 10 years as stipulated by the said Government order. The respondents therefore prayed that the writ petition deserved to be dismissed.

4. The learned counsel for the petitioner submitted that the very same objection that is now raised by the respondents in the counter was raised even in the C.P.No.27 of 2009, and the same was rejected by the Labour Court. The learned counsel submitted that the issue regarding possession of 10 years of qualifying service by the petitioner's deceased father was settled by the Labour



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Court, in C.P.No.27 of 2009 and the same was confirmed by this court in

W.P.No.1003 of 2013. The learned counsel therefore submitted that the objection

now raised by the respondents deserved to be rejected as it was covered by earlier

Labour Court order as confirmed by the writ court. The learned counsel submitted

that in the claim petition before the Labour Court, the petitioner's deceased father

claimed pension arrears from 01.01.1988 to 31.03.2009, to the tune of

Rs.3,56,846/- with interest at the rate of 12% per annum, from 19.03.2007, and

that the same was paid by the respondents. However, the respondents did not pay

the pension arrears for the subsequent period from 01.04.2009 to 09.10.2019,

(i.e.), the date of death of petitioner's father. The learned counsel further

submitted that the eligibility of the petitioner's deceased father for pension could

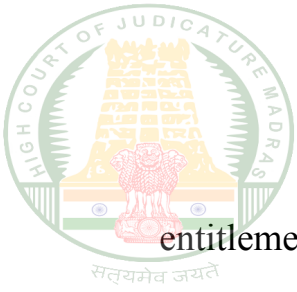
not be re-agitated by the respondents and therefore the writ petition deserved to be

allowed.

5. The respondent's counsel reiterated the contentions raised in the counter affidavit.

6. I have heard both the learned counsels and perused the materials placed on record.

7. As rightly contended by the learned counsel for the petitioner, the



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entitlement of the petitioner's deceased father's eligibility for pension cannot be re-agitated by the respondents, in as much as the Labour Court in C.P.No.27 of 2009, allowed the claim petition, on a finding that the petitioner's deceased father had net qualifying service of 10 years. The award of the Labour Court was confirmed by the writ court in W.P.No.1003 of 2013. In its order dated 13.02.2017, the writ court allowed the writ petition, with a direction to the petitioner's deceased father to file appropriate application before the labour court to withdraw the balance award amount and the same was also subsequently paid.

8. As the entitlement of the petitioner's father to pension has attained finality, in my view, the respondents cannot re-agitate the issue in the present writ petition, which is filed for arrears of pension for the subsequent period from 01.04.2009 to 09.10.2019 i.e the date of death of petitioner's father. It is very disheartening to note that the respondents despite having suffered adverse orders in the earlier round of litigation, have raised the very same issue in the present writ petition, thereby forcing the petitioner to file the present writ petition for the aforesaid relief.

9. It is trite in law that pension is not a bounty and that it is property within



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meaning of Article 300-A of Constitution of India and therefore, any deprivation of property except by the authority of law cannot be sustained. The respondents despite of earlier orders of this court, confirming the petitioner's deceased father's entitlement to pension unlawfully rejected the petitioner's claim for pension for the subsequent period from 01.04.2009 to 09.10.2019. Therefore, I am of the view that the petitioner is entitled to interest at the rate of 9% per annum, on the arrears of pension payable to them by the respondents for the period from 01.04.2009 to 09.10.2019.

10. In view of the above discussion, a direction is issued to the respondents to pay the arrears of pension to the petitioners for the period from 01.04.2009 to 09.10.2019, with interest at the rate of 9% per annum, within a period of eight (8) weeks from the date of receipt of a copy of this order. It is made clear that, if the pension is not paid within the stipulated period, then the same should be paid with 12% interest per annum.

11. Writ Petition is accordingly allowed. However, there shall be no order



as to costs.



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Index: Yes/No

Neutral Citation: Yes/No

Speaking order: Yes/No

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To

1.The Secretary to Government,
Transport Department,
Fort St. George,
Chennai-600 009.

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

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