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WP No. 13691 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

**WP No. 13691 of 2019
AND WMP NO. 13750 OF 2019**

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

Petitioner(s)

Vs

1. S.Natarajan (DIED)
S/o.Mr.Swamonathan, Care of Mr.J.Suresh Kumar, 9/3-
A, Mani Street, Sarathy Nagar, West Saidapet,
Chennai 600 015.

2.The Managing Director,
Tamil Nadu State Transport Corporation, Ltd, Post Box
No.46, New Railway Station Road,
Kumbakonam 612 001.

3.N.Ravichandran,
S/o.(late) Nagarajan, Plot No.110, Dharmambal Nagar,
Ivth Cross Mariamman Kovil,
Thanjavur District 613 501.

4.N.Girija,

5.N.Chandrasekar

6.V.Shanthi,



7.K.Thenmozhi,

(R3 To R7 Are Substituted As Lrs Of Deceased R1, As

Per Order Dated 08.01.2024 In WMP.29704/2023 In

Wp.13691/2019 By NMJ)

Respondent(s)

This writ petition has been filed under Article 226 of Constitution of India, to issue a writ of certiorari, Calling for the records relating to the Order dated 04.01.2019 passed by the IIIrd Additional Labour Court, Chennai in C.P.No.259 of 2015 and to quash the same.

For Petitioner(s): MR. LSM. HAZAN FIZAL AGP

For Respondent(s): M/S. C. SENAPATHI, FOR R2

M/S.V.CHINNASAMY, FOR R3

TO R7

ORDER

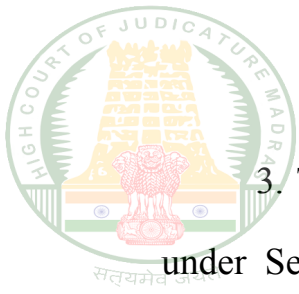
Questioning the award passed by the III Additional Labour Court, Chennai, in C.P.No.259 of 2015, dated 04.01.2019, the present writ petition has been filed by the Transport Department.

2. The brief facts of the case are as follows:

The first respondent herein was working as Conductor in a private bus transport from 01.06.1960. The Tamil Nadu Government took a policy decision to nationalise all private bus companies and accordingly, the first respondent was absorbed in Tamil Nadu State Transport Department. Thereafter, the Tamil Nadu State Transport Department was wound up in the year 1975 and various transport corporations were formed. The second respondent became an



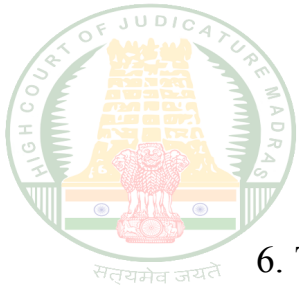
employee of Chozhan Roadways Corporation at Kumbakonam. After serving for 31 years, the first respondent got superannuated in the year 1991. The first respondent claimed that in view of the continuous service for more than 10 years, he is eligible for pension from Tamil Nadu State Transport Department. Therefore, the Worker prayed for pension from 01.03.1982 to 31.03.2015 at the rate of Rs.9000/- per month totalling around Rs.35,73,000/-. The petitioner transport Corporation rejected the prayer prayed by the worker and accordingly, a industrial dispute was raised. Before the Labour Court, the petitioner transport department took a stand that the worker has not rendered service in Tamil Nadu State Transport Department and in Page No.3 of the service record, it was recorded that he served in SRVS limited as bus conductor from 01.06.1960 to 29.02.1971. It was also further recorded at Page No.5 of the service register, the worker was an employee of SRVS Limited, Kumbakonam and absorbed in Corporation on 01.03.1972. According to the department, the worker was paid both the employee and employer contribution provident fund at that time of retirement and he is not eligible for getting government pension. Both sides let in oral evidence and marked documents in support of the pleadings. The learned Tribunal on an analysis of the entire materials available on record, allowed the claim petition and directed the department to pay a sum of Rs.22,37,250/- towards arrears of pension for the period from 01.07.1991 to 31.03.2015 within a period of two months . Challenging the said order, the present writ petition has been filed.



3. The learned counsel for the petitioner submitted that to file a petition under Section 33(2)(b) of the ID Act, a pre-existing right in favour of the workmen should be available. In the present case, the worker has not demonstrated for a pre-existing right was in his favour to seek a direction to the department to pay arrears of pension. The learned counsel further submitted that the worker was an employee of the erstwhile SRVS private limited from 01.06.1960 and his services were confirmed only w.e.f. 01.06.1991. The learned counsel submitted that consequent on the formation of various transport company, the workman was absorbed to Chozhan Roadways Corporation, Kumbakonam on 01.03.1972. The workman was retired on 30.06.1991 after 31 years of service. Therefore, the learned counsel submitted that the workman is not entitled for arrears of pension for the period between 01.03.1982 and 31.3.2015. The learned counsel therefore, submitted that the impugned order deserves interference of this Court.

4. The learned counsel for the workman contended that the Labour Court has considered materials available on record in his proper prospective and arrived at a finding that the workman is entitled for arrears of pension from 01.03.1982 to 31.03.2015 and the same does not require any interference. The learned counsel prayed to reject the writ petition.

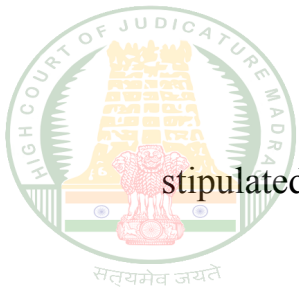
5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.



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6. To decide the *lis* in this matter, few dates are important. The workman was serving as a conductor in a private transport Corporation viz., SRVS Limited from 01.06.1960. After 12 years, in the year 1972, private bus companies were nationalised and in such process, SRVS was also nationalised and the workman was absorbed in the erstwhile Tamil Nadu State Transport Department. After three years, in the year 1975, the Tamil Nadu State Transport Department was wound up and various transport corporation were formed. The petitioner became an employee of Chozhan Roadways Corporation w.e.f. 01.03.1972. The workman continued to serve Chozhan roadways Corporation until 30.06.1996 and he superannuated on the said date. As per the Government Order in G.O.Ms.No.1028 dated 23.09.1985 of the Transport Department, the crucial date for permanent absorption in the Transport corporation has been fixed as 01.05.1975. The said cut-off date was challenged by the employees before the Hon'ble Supreme Court. The Apex Court in civil appeal Nos. 1444 and 1445 of 1999, in exercise of powers under Article 149 of Constitution of India directed that the date 01.04.1982 shall be adopted as the cut-off date. The Hon'ble Supreme court also held that the employees who ever have retired and get arrears of pension only on 01.01.1988.

7. Based on the cut-off date fixed by the Hon'ble Supreme Court, the workman should be deemed to be service in Tamil Nadu State Transport corporation from 01.03.1972 to 01.04.1982. This period is more than 10 years



stipulated for seeking pension.

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8. Though the petitioner had claimed arrears of pension at the rate of Rs.9,000/- per month for a period of 397 months, relying on the government order dated 25.10.2017 wherein minimum pension has been sanctioned for employees who retired/died while in service before 2016 has been fixed at Rs.7850/- per months, the Labour court arrived at a sum of Rs.22,32,250/-. The Labour Court had calculated the pension for a period between 01.07.1991 to 31.03.2015.

9. On a careful examination of the materials placed before this Court and also the impugned order, this Court is of the view that the findings arrived at by the Labour Court are cogent and convincing, warranting no interference by this Court. Hence, the impugned order is sustained and the writ petition is dismissed. The petitioner is directed to pay a sum of Rs.22,37,250/- to the workman within a period of four weeks from the date of receipt of a copy of this order, failing which, the workman is entitled to get interest at the rate of 9% till the date of realisation. No costs. Consequently, connected miscellaneous petition is closed.

16-04-2025

Rli



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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Managing Director,
Tamil Nadu State Transport
Corporation, Ltd, Post Box No.46, New
Railway Station Road, Kumbakonam
612 001.



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M.DHANDAPANI J.

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WMP NO. 13750 OF
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