



W.P.No.23018 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.23018 of 2018

P.Paramasivam

... Petitioner

Vs.

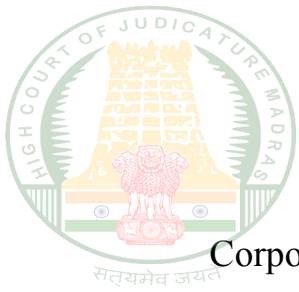
1.The Additional Chief Secretary,
Transport Department,
St.George Fort,
Chennai 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Ramakrishna Road,
Salem - 636 007.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the petitioner is entitled for the payment of pension along with his commutation as per the Tamil Nadu State Transport Corporation Employees Pension Fund Rules 2000 run by the third respondent Tamil Nadu State Transport



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Corporation Employees Pension Fund Trust and to declare that the petitioner is entitled to count the service rendered in daily paid service prior to 01.04.2003 and to declare that the petitioner is entitled for drawing pension and other retiral benefits arising out of earlier service.

For Petitioner : Mr.N.Desinghu
For Respondents : Mrs.S.Anitha, SGP for R1
Mr.M.Aswin, Standing Counsel for R2 & R3

ORDER

This Writ Petition has been filed to declare that the petitioner is entitled for the payment of pension along with his commutation as per the Tamil Nadu State Transport Corporation Employees Pension Fund Rules 2000 run by the third respondent Tamil Nadu State Transport Corporation Employees Pension Fund Trust and to declare that the petitioner is entitled to count the service rendered in daily paid service prior to 01.04.2003 and to declare that the petitioner is entitled for drawing pension and other retiral benefits arising out of earlier service.

2. Heard Mr.N.Desinghu, learned counsel for the petitioner, Mrs.S.Anitha, learned Special Government Pleader for R1 and Mr.M.Aswin, learned Standing Counsel for R2 & R3 and perused the materials available on record.



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3. The learned counsel for the petitioner submitted that the petitioner has been appointed in the year 1997 as a trainee driver and he has been in continuous service and his services have not been regularised in view of the ban in recruitment. The petitioner was redesignated as temporary driver on 01.09.2005 and he was brought into regular time scale of pay on 25.10.2006 and got retired from service on 31.03.2014 on attaining the age of superannuation. Now, it is claimed that the petitioner's past service as trainee driver prior to 01.04.2003 should also be counted and to declare him to come under the old pension scheme.

4. The learned Special Government Pleader for the first respondent submitted that the petitioner has been appointed as temporary driver only on 01.09.2005 and his services have been regularised on 25.04.2006 from the date of his appointment as temporary driver and that he has been brought under the contributory pension scheme. She further submitted that the petitioner has been regularised after 01.04.2003 and hence, he is not entitled to count his half of the past service.

5. Law on this issue has been settled in the judgment of the



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Division Bench of this Court in ***W.A.No.158 of 2016 dated 03.12.2019***

(The Government of Tamil Nadu and Others Vs. R.Kaliyamoorthy) and

hence, it is no more a *res integra*. The relevant paragraph is extracted as under:

"45. In the light of the above, we answer the reference as follows:

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.



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(iv) *Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.*

(v) *Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."*

6. The petitioner did not challenge his appointment order dated 01.09.2005 where he has been appointed as a temporary driver on a daily basis by claiming that he has been in continuous service even prior to that and that he is entitled to be absorbed as a permanent employee. He also did not file any proceedings before the adjudicating authority under the conferment of permanent status Act by alleging that he has completed the required minimum number of years to declare permanency.

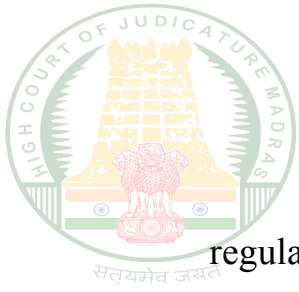


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7. Even the petitioner has shown certain documents between the period from 1997 to 2000 and they would only show that the petitioner was a daily wager. According to the respondents, the petitioner was working as a trainee driver who used to come whenever there is any call to him and that his services as driver was not continuous. In the order of appointment itself, it has been clearly stated that the petitioner would be brought under the new pension scheme as his appointment was not made before 01.04.2003. The order of regularisation has been issued on 25.10.2006 wherein also it has been stated that his services have been regularised with effect from 01.10.2006. The petitioner is not able to show that he has been in 10(a)(i) employment prior to his temporary services rendered from the year 2005.

8. The petitioner's claim that he would fall under clause (ii) of paragraph 45 of the above judgment of the Division Bench of this Court cannot be accepted. The petitioner has been appointed as a casual labourer and there was no scheme or any Government Order passed to



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regularise the service of casual labourers like that of the petitioner by giving regularisation with effect from an anterior date. In the absence of any such proof, no declaration as sought by the petitioner can be made.

9. In the result, this Writ Petition is dismissed. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA,J.

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To

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