



WP NO. 16915 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

W.P No. 16915 of 2022

N.Murugesan

..Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Fort St.George, Chennai-9.

2.Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its Managing Director,
No.37, Mettupalayam Road,
Coimbatore-43.

3.The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Region, Chennimalai Road,
Erode-1.

4.Tamil Nadu State Transport Employees' Pension Fund Trust,
Rep. by its Administrator,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-2.

..Respondents

Prayer : Writ petition is filed under Article 226 of Constitution of India, praying for writ of declaration, declaring that the action of the respondents 2 to 4, in excluding the petitioner service from 15.02.1980, 28.08.1980 to 13.06.1992 as Technical Staff for calculating and paying him Gratuity and Pension, along with his service as Supervisory Staff/Managerial Staff from 21.06.1992 to 31.03.2015 and calculating and paying pension for the service as



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Technical Staff separately based on the last drawn salary received by the petitioner in the said post, instead of calculating and paying him gratuity and pension for his entire service from 15.02.1980 / 28.08.1980 to 31.03.2015 as illegal, arbitrary, unjust and unreasonable and consequently to direct the respondents 2 to 4 to pay the petitioner gratuity and pension for his entire service including the service as Technical Staff and including the period of training from 21.06.1992 to 02.08.1993, with arrears of pension for the period from 01.04.2015, together with interest after adjusting the gratuity amount paid to the petitioner for his service as Technical Staff with 9% compound interest, as per the orders of the 1st respondent dated 25.04.2017, 16.07.2018 and 30.03.2022, within a specified time as fixed by this Court.

For Petitioner: M/s.G.K.Dharshini

For Mr.V.Ajoy Khose

For Respondents: Mr.L.S.M.Hasan Fazil, AGP -R1

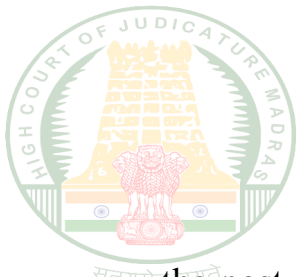
Mr.T.Chandrasekaran – R2 & R3

Mr.C.S.K.Sattish- R4

ORDER

Writ petition is filed for a declaration seeking directions to the respondents 2 to 4 to count the past services of the petitioner for the purpose of pension calculation and for consequential directions to pay the petitioner gratuity for the entire service period along with arrears, and compound interest, by adjusting the gratuity amount already paid.

2. The petitioner was originally appointed as a Cleaner. While the petitioner was serving as a Junior Tradesman, he was selected and appointed as a Junior Engineer by the 3rd respondent on 08.06.1992, on consolidated pay of Rs.900/- per month. The said appointment was subject to his resignation from

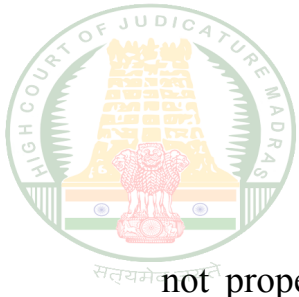


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the post of Junior Tradesman. The petitioner resigned from the post of Junior Tradesman on 10.06.1992, and thereafter, he was appointed as Junior Engineer (Trainee) by the 3rd respondent, at the Head Office in Erode. Upon successful completion of training, the petitioner was regularly appointed as a Junior Engineer, by order dated 19.08.1993, with effect from 03.08.1993. Later, the petitioner was promoted as Assistant Engineer on 30.11.2004, and as Senior Assistant Engineer on 23.12.2005, with effect from 04.08.2005. While the petitioner was working at Tirupur Depot-II, he submitted his resignation letter on 11.09.2014. The resignation was accepted and the petitioner was allowed to retire voluntarily from service and relieved on 31.03.2015. The petitioner states that he was paid gratuity and pension from the date of his appointment as Junior Engineer, and his services as Cleaner, Helper, and Junior Assistant from 15.02.1980 to 16.08.1980 were not counted for the purpose of calculating gratuity and pension.

3. The petitioner submitted a representation to the 1st respondent on 10.02.2016, seeking inclusion of his service rendered prior to his appointment as a Junior Engineer for the purpose of calculating pension and gratuity. Even though the 1st respondent considered his representation and issued directions to respondents 2 and 4 to sanction the revised pensionary benefits, the same was



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not properly considered by respondents 2 to 4. Hence, seeking directions to respondents 2 to 4 to comply with the directions issued by the 1st respondent, the present writ petition is filed.

4. The 3rd respondent filed a detailed counter affidavit, stating that there was a break in service from 14.06.1992 to 20.06.1992 and from 21.06.1992 to 02.08.1993, and during the said period no P.F. amount was deducted from the petitioner's salary. According to the respondents because of the break in service, the petitioner was not entitled to full gratuity. It was further stated that the petitioner's pension was calculated and paid separately for the period he worked in the technical and supervisory cadre. According to the 3rd respondent, the pensionary benefits were granted to the petitioner in accordance with the prevailing rules, and therefore, the writ petition lacked merits and was liable to be dismissed.

5. The learned counsel for the petitioner, in support of his contentions, relied on the order of this Court passed in W.P. No. 25756 of 2022, dated 01.02.2024 (*T.A. Joseph Charli v. The Management of Tamil Nadu State Transport Corporation (Kovai) Ltd. & another*), and submitted that the facts of the said decision squarely apply to the present case. Hence, he prayed that the



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writ petition be allowed.

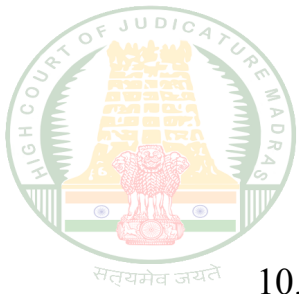
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6. Heard both counsels and perused the records.

7. The core issue to be decided in this writ petition is whether the service rendered by the petitioner prior to his appointment as Junior Engineer should be considered for the purpose of calculating pensionary benefits and gratuity.

8. The main objection of the respondents for not considering the entire period of service for pensionary benefits is that the break in service during the period prior to the appointment to the post Junior Engineer was treated as separate account, and the PF and Gratuity were paid for the said period. Therefore, the petitioner was not entitled to receive the pensionary benefits for continuous period.

9. It is seen that the respondents raised the very same objection in W.P. No. 25756 of 2022 filed by a similarly placed person. However, this Court, by order dated 01.02.2024, rejected those objections by relying on Rule 16(e) of the TNSTCEPF Rules and, granted relief to the petitioner therein.



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10. Admittedly, Rule 16(e) of the TNSTCEPF Rules is applicable to the petitioner. Indisputably the 1st respondent, vide order dated 25.04.2017, condoned the break in service from 14.06.1992 to 20.06.1992 and the training period from 21.06.1992 to 02.08.1993, relying on Rule 16(e) of the TNSTCEPF Rules. The 1st respondent further directed respondents 2 and 4 to grant terminal benefits for the period from 28.08.1980 to 13.06.1992, during which period the petitioner worked as Cleaner and Helper, subject to repayment of the terminal benefits earlier received by the petitioner, if any, along with 9% compound interest.

11. In view of the aforesaid order of the 1st respondent/Government, the objections of the respondents 2 and 4 for denying the benefit of counting past services of the petitioner for the purpose of pension and gratuity cannot be sustained. Hence I find no merit in the submissions of the learned counsel for the respondents.

12. Under the facts and circumstances of the case, and in the light of the order dated 25.04.2017 of the 1st respondent/Government, I am of the view that the petitioner is entitled to the pensionary benefits for the entire period of service, subject to the conditions mentioned in the abovesaid order of the 1st



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respondent. Accordingly, the following directions are issued:

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i. Respondents 2 and 4 are directed to treat the petitioner's entire service from 28.08.1980 to 31.03.2015 as his pensionable service and to revise the pensionary and retirement benefits and pay the revised pension and arrears if any, to the petitioner along with interest at the rate of 6% per annum, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

ii. The petitioner shall repay the monetary benefits if already received for the period from 28.08.1980 to 13.06.1992 to the respondents, along with 9% compound interest.

13. With the above directions, the writ petition is allowed. No costs.

15-04-2025

Index : Yes/No
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N. MALA, J.

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To

1. The Secretary,
Transport Department,
Fort St. George, Chennai-9.

2. The Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore-43.

3. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
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