



W.P.No.24132 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06.03.2025

CORAM :

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

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R.Wilson

... Petitioner

Versus

1.The Administrator,
Employees Pension Fund Trust,
Tamil Nadu State Transport Corporation Ltd.,
Pallavan House, Anna Salai, Chennai – 600 002.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam, Thanjavur District.

... Respondents

PRAYER : Writ Petition filed under Section 226 of the Constitution of India, praying to issue an Writ of Mandamus, directing the respondents to disburse the pension with commutation considering the medical grounds of both the petitioner and his wife Tmt. Anandhi lying on the death bed by-pass surgery and his wife's breast cancer surgery and both of them counting their days without a single penny in the circumstances of the case.

For Petitioner	: M/s.V.Rani for Mr.M.Vembadiyan
For R1	: Mr.C.S.K.Sathish Standing Counsel
For R2	: Mr.M.Muralivinodh Standing Counsel



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ORDER

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This writ petition has been filed seeking to direct the respondents to disburse the pension with commutation considering the medical grounds of both the petitioner and his wife Tmt. Anandhi lying on the death bed by-pass surgery and his wife's breast cancer surgery and both of them counting their last days without a single penny in the circumstances of the case.

2.The case of the petitioner is that he worked in the respondent Corporation from 10.08.1999 onwards and retired on 31.05.2019. According to the petitioner, he was put in 20 years of service and hence his service should be brought under the old pension scheme.

3. Learned counsel for the petitioner would submit that the petitioner has not been granted any monitory benefits and other benefits by the respondents Corporation. According to the petitioner, he approached the respondents many times to settle his service benefits considering his health conditions, atleast for payment of medical bills for the bypass surgery undergone by him. When the Officials denied to settle his request, he approached this Court by way of writ petition in W.P(MD).No.20600 of 2019 and this Court also directed the



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petitioner to approach the Administrator of the said Corporation at Chennai for availing pension. The respondents have not replied for the petitioner's representation made on 26.11.2019, but they rejected the petitioner's representation stating that the petitioner is not entitled for pension since he has been regularized only in the year 2005. The petitioner's wife has also undergone treatment for cancer and therefore, the petitioner need money for their treatment and to pay the medical bills. This Court directed the respondents 1 and 2 to consider the claim made by the petitioner and the petitioner now the seeks for writ of mandamus directing the respondents to disburse the pension with commutation amount.

4.Learned Standing Counsel appearing for the respondents filed a counter denying the averments of the petitioner and submitted that the petitioner was appointed in the respondents' Corporation on 05.09.1999 as conductor under the daily wage category with the Staff No.99CR1213. Section 25F of the Industrial Disputes Act, 1947 provides that a workman who has been in continuous service for not less than one year under an employer shall be deemed to have completed one year of continuous service if he has worked for not less than 240 days in a period of 12 calendar months. However, in the present case, the petitioner has been frequently involved with the misconduct of



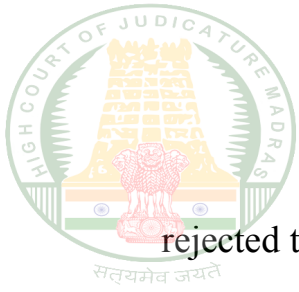
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unauthorized absent and the management initiated disciplinary action for six

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times and also minimum punishment was awarded to him. In the year 2004-2005 only, he completed 240 working days within a year and his duty was regularized on 01.09.2005. From 01.04.2003 onwards the Government brought Contributory Pension Scheme and accordingly, this petitioner comes under the said scheme since his service was regularized only from 01.09.2005 onwards. Therefore, the petitioner is not eligible to get EPFT Pension Scheme. In respect of all other employees, the date of regular employment or becoming the member of the Employee's Provident Fund in the STU will be reckoned for the calculation of pensionable service. Therefore, the EPFT Pension Rule 2 (P) (iii)) reveals that the pensionable service has to be calculated from the date of confirmation of service only.

5.He further submitted that the Assistant Manager Legal, Kumbakonam after considering the claim of the petitioner, had rejected his claim on 30.09.2020 vide proceedings in TNSTC/Kum/Legal/L2/20600/2019 on the ground that the petitioner had been regularized only with effect from 01.09.2005. After 01.04.2003, the persons who have been regularized and made permanent, are not entitled to pension and only the persons who were appointed before 01.04.2003 will be entitled for pension and accordingly, he



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rejected the claim of the petitioner.

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6. Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents and perused the materials available on record.

7. Upon hearing and going through the averments made in the typed set of papers, it is evident that the petitioner was absenting himself unauthorizedly and various disciplinary actions were taken against the petitioner. Only in the year 2004-2005, he completed 240 days of continuous working and he has been regularized. On going through the counter affidavit, it is seen that even though the petitioner was appointed in the year 1999, the petitioner cannot be brought under the Old Pension Scheme and any other pension scheme to which, the petitioner is eligible the same ought to have been considered by the authority. Further, according to the respondents, from 01.04.2003, who were recruited and regularized, were brought under the CPS Pension scheme and since the petitioner's services were regularized with effect from 01.09.2005, he has been rightly brought under CPS Pension Scheme.

8. Learned counsel for the petitioner relied on various judgments of this



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Court, which are factually different from this case. In those cases, the employees were recruited in the year 2002 and given appointments in the year 2003 and therefore, they are all coming under the old pension scheme. In the present case, the petitioner initially was working under daily wage category from the year 1999 and he was absenting himself on various dates and he has not completed 240 days of continuous service till the year 2005 and only in the year 2005, he has completed and accordingly his services were regularized with effect from 01.09.2005. It is pertinent to note that all along, the petitioner has not challenged the order of regularization and also not claimed that he was entitled to be regularized from the date of his initial appointment. Without challenging the regularization orders, the petitioner cannot now come and claim that his services ought to have been regularized from the date of his initial appointment and thereby, he is entitled to the pension under old scheme and to grant the relief as sought for in the present Writ Petition. Therefore, this Court is of the view that the Writ Petition is liable to be dismissed both on the grounds of merits and latches.



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06.03.2025

rst

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

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V.BHAVANI SUBBAROYAN, J.

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