BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.12.2025**

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THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

WP(MD) No. 5542 of 2021

N.Rajendran ...Petitioner

Vs

1.The Managing Director
Tamil Nadu State Transport Corporation
Tirunelveli Limited
Tirunelveli

2. The General Manager
Tamil Nadu State Transport
Corporation Tirunelveli Limited
Ranithottam
Nagercoil 629 001
Kanyakumari District.

3.The Administrator
Tamil Nadu State Transport Corporation
Employees' Pension Trust
Thiruvallur House
Pallavan Salai, Chennai 600 002 ...Respondents

Prayer: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent's letter made in 4620/ஓஊபி/தநஅபோக/நாகர்/2018 dated 10.11.2020 and quash the same as illegal consequently direct the respondents to give all other monetary benefits to the petitioners forthwith.

For Petitioner :Mr.N.S.Ramakrishna Dass

For Respondents :Mr.R.Rajamohan for R1 & R2

: Mr.S.C.Herold Singh for R3

O R D E R

The present writ petition has been filed challenging the order passed by the second respondent herein 10.11.2020 wherein the request of the petitioner to reckon the pensionable service from the date of joining as a member of Employees' Provident Fund Organisation has been rejected.

2.According to the learned counsel for the writ petitioner, the petitioner had joined as a Driver in the second respondent Transport Corporation on daily wage basis on 01.06.1984 and became permanent on 01.07.1985. However, he was made as a member of the Employees' Provident Fund on 01.10.1984 and contributions were deducted from his salary. The petitioner had attained superannuation on 30.11.2014. However, the pensionary service was reckoned only from the date on which the petitioner was made permanent that is on 01.07.1985 and not from 01.07.1984 when contribution under the Employees' Provident Fund Scheme was deducted from the writ petitioner.

3.Pointing out this anomaly, the petitioner has given a request to the respondent authority which is rejected under the impugned order dated 10.11.2020. This order is put to challenge in the writ petition.

4.According to the writ petitioner, the issue is covered by an order of this Court in WP(MD).Nos.13057 to 13059, 13061 & 11972 of 2022. This order was challenged before the Hon'ble Division Bench in WA(MD).Nos. 1762 to 1766 of 2025 and the same was also dismissed on 09.07.2025. According to the learned counsel for the writ petitioner, the petitioner is a similarly placed person and therefore, he seeks the same benefits.

5.Per contra, the learned counsel appearing for the respondents transport corporation had pointed out that the petitioner could be considered to be an employee only when he is made permanent that is on 01.07.1985. Therefore, the pensionary benefits rightly reckoned from 01.07.1985.

6.I have considered the submissions made on either side and perused the material records.

7.This Court in an order dated 12.08.2024 in WP(MD).Nos.13057 to 13059, 13061 & 11972 of 2022 in Paragraph No.4 has held as follows:

> "*4.A perusal of the Rules 2(o) and 2(v) of the Employees Pension Fund Rules indicate that the pensionary service has to be calculated from the date on which an employee become a member of the fund. In all these cases, it is not in dispute that the petitioners were the members of the EPF Pension Scheme and later, they have been brought under the Transport Corporation Employees Pension Funds Scheme. Therefore, the submission on the part of the Transport Corporation that their pensionary service will be reckoned only from the date on which, they were made permanent and not from the date*

on which they became the members of the fund is not legally sustainable."

8.This order was confirmed by the Hon'ble Division Bench in WA(MD).Nos. 1762 to 1766 of 2025 dated 09.07.2025. Paragraph No.6 of the said judgment is extracted as follows:

> "*6. The aforesaid Division Bench decision was not taken note of by both the single Judges (SMSJ & RSKJ). Therefore, in our view, there is no need for making reference to a Division Bench because a Division Bench has already settled the issue authoritatively. The issue can be approached from another perspective also. It is true that only a regular employee can become a member of the pension scheme. When the management enrolled the daily wage employee as a member, it had collected the contribution premium under the relevant pension scheme. They cannot now be heard to contend that the temporary employee cannot be a member of the pension scheme and that his pensionable service will be reckoned only from the date of regularisation. It is well settled that one cannot take advantage of one's own wrong."*

9.In view of the above said facts, the order impugned in the writ petition is set aside and the writ petition stands allowed. The respondents are directed to reckon the pensionable service of the writ petitioner with effect from 01.10.1984 and to disburse the benefits within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

08-12-2025

Index :Yes/No
Internet :Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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