



W.P.(MD).No.13500 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.07.2025

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD).No.13500 of 2019

M.Jeyaraman

... Petitioner

Vs.

1.The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
Rep. by its Managing Director,
Pudukottai.

2.The Administrator,
Tamil Nadu State Transport
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai – 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to revise the pension benefits of the petitioner and to pay him full pension by treating him to have rendered more than 30 years of pensionable service period in accordance with TNSTCPF Rules and to pay him difference / arrears of monthly pension for the period from June, 2013 and also pension commutation, together with 18% interest per annum, within a time frame as may be fixed by this Court.



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For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.S.C.Herold Singh
Standing Counsel

ORDER

This Writ Petition is filed by the retired employee of the respondent Corporation seeking inclusion of his service period between 01.12.1981 and 31.03.1984 in his pensionable service.

2. According to the petitioner, he was appointed as Conductor in the respondent Corporation on 11.09.1981. Subsequently, his services were regularised and he was promoted to the post of Checking Inspector and thereafter, he retired on 31.05.2013, rendering totally 32 years of service. However, while calculating the pension benefits, the Corporation has not included the service period between 01.12.1981 and 31.03.1984. He further submitted that from the date of entry into service, the EPF contributions were made from his salary account and subsequently, the Pension Fund Scheme was also floated by the Corporation by way of settlement dated 13.02.1999 under Section 12(3) of the Industrial Disputes Act. Due to non-inclusion of the period mentioned above, the petitioner is not able to get full pension. While he



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approached the respondents seeking grant of full pension, it was replied that he was on “leave on loss of pay” for 441 days, hence, it resulted in reduction of pensionable period. Even if the said 441 days are taken into consideration as non-contributory service period, still, he is entitled to get full pension since he has rendered totally 30 years and 4 months service. Hence, he had come forward with this Writ Petition.

3. The respondents filed a counter affidavit and submitted that the petitioner was appointed as Trainee Conductor on 11.09.1981 and regularised as Conductor with effect from 01.10.1983 in the respondent Corporation. Thereafter, he was promoted to various posts and superannuated on 31.05.2013. The respondents further relied on Section 2(p)(iii) of TNSSTC EPF Rules and Government Letter No.11785/D/2003-2, Transport Department dated 08.09.2003 to contend that the period of daily paid wages or consolidated wages shall not count for pension even though provident fund recovery is made on 01.12.1981. Hence, the pensionable service period starts only from 01.10.1983, the date on which he was given regular appointment.



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4. I have considered the submissions made on both sides and also perused the records.

5. The issue of including the service period rendered by an employee while he was working in consolidated basis or daily wage basis or as temporary employee has already been considered by the Division Bench of this Court in the case of ***the Managing Director, Tamil Nadu State Transport Corporation, Madurai Zone-III Vs. M.Thangaiyan*** in ***W.A.(MD).No.1006 of 2014 dated 22.12.2016***, wherein, it has been held as follows:

“8. The issue involved in this Writ Appeal is no more res integra. Similar issue involved in this Writ Appeal was already dealt with by another Division Bench of this Court in the case of the Managing Director, Kumbakonam Vs. N.Jothi and another, W.A.(MD).No.94 of 2010 and in the said judgment, by order, dated, 20.04.2010, this Court by negating the contention raised by the respondents directed the Transport Corporation to calculate the pension amount from the date on which the contribution for employee provident fund was deducted and therefore, we do not find any infirmity or illegality in the order dated 03.04.2013 made in W.P(MD).No.5830 of 2008 passed by the learned Single Judge. Added further, initially, the petitioner was granted pension by the Corporation for a period of five and half years and for the best reasons



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known to them, it was abruptly stopped, which is only an after-thought of the Corporation. Therefore, we do not find any compelling reasons warranting any interference with the reasoned order passed by the learned Single Judge. Hence, this Writ Appeal is liable to be dismissed and accordingly, it is dismissed. Since the petitioner is in the evenings of his life even at the time of filing the Writ Petition and the matter has been pending for more than seven years before this Court, the respondents/Transport Corporation are directed to comply with the order of the learned single Judge made in W.P(MD).No. 5830 of 2008 dated 03.04.2013 and grant pension, including the arrears of amount so far to be payable to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”

6. The Division Bench of this Court, in the case of ***the Administrator, Tamil Nadu State Transport Corporation, Employees Pension Trust, Thiruvallur House, Pallavan Salai, Chennai Vs. M.Arumughakan and others*** in ***W.A.(MD).Nos.1762 to 1766 of 2025 dated 09.07.2025***, has followed the above ratio and in paragraph 6, it has been held as follows:

“6. ...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



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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."

7. In this case, admittedly, the petitioner worked as Trainee Conductor and his EPF contributions were also received for the purpose of pension. Hence, he is entitled for the relief claimed in this Writ Petition. Accordingly, the respondents are directed to re-work the pension papers of the petitioner and issue revised pension from October 2025.

8. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

09.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.RAJASEKAR,J.

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