

W.P.(MD) Nos.24812, 24869 & 24868 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 27.06.2025

PRONOUNCED ON : 11.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) Nos.24812, 24869 & 24868 of 2016

and

W.M.P. (MD) No.10156 of 2017

N.Ethirajulu,
No.4/43, Sivakami Nagar,
P.R.C. Colony,
Thanakkankulam,
Thirunagar,
Madurai - 625006.

...Petitioner in W.P.(MD)No.24812 of 2016

M.Kannan,
No.1, Dr.Ambedkar 3rd Street,
Bankers Colony,
Kumaran Nagar,
Puthur,
Trichy - 620017.

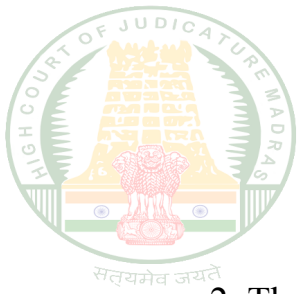
...Petitioner in W.P.(MD)No.24869 of 2016

L.Vallinayagam,
A-27, Gandhiji Street,
Thirunagar,
Madurai - 625006.

...Petitioner in W.P.(MD)No.24868 of 2016

Vs.

1. The Secretary,
Transport Department,
Secretariat, Fort St. George,
Chennai - 600009.



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

2. The Director,
Directorate of Pension,
259, Anna Salai 3rd Block,
2nd Floor, Teynampet,
Chennai - 600006.

3. The Managing Director,
Tamilnadu State Express Transport Corporation,
Pallavan Illam,
Pallavan Salai,
Chennai - 600002.

...Respondents in all the petitions

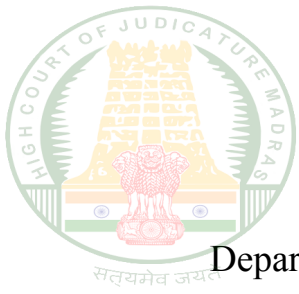
4. The Pension Administrator,
Tamilnadu State Express Corporation Pension Fund,
Pallavan Illam,
Pallavan Salai,
Chennai - 600002. ...4th Respondent in W.P.(MD)No.24868 of 2016

PRAYER in W.P.(MD)No.24812 of 2016:

To pass an order, writ or direction, more particularly in the nature of a Writ of Mandamus directing the 2nd Respondent to pay pension for the service rendered by the Petitioner in the Tamil Nadu Transport Department from 28.12.1968 to 01.04.1982 under the Madras Liberalised Pension Rules 1960 with arrears from 01.01.1988 and pass such further or other order or orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER in W.P.(MD)No.24869 of 2016:

To pass an order, writ or direction, more particularly in the nature of a Writ of Mandamus directing the 2nd Respondent to pay pension for the service rendered by the Petitioner in the Tamil Nadu Transport



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

Department from 25.01.1968 to 01.04.1982 under the Madras Liberalised Pension Rules 1960 with arrears from 01.01.1988 and pass such further or other order or orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER in W.P.(MD)No.24868 of 2016:

To pass an order, writ or a direction, more particularly in the nature of a Writ of Mandamus directing the 2nd Respondent to pay appropriate pension for the service rendered in the erstwhile Tamilnadu State Transport Department from 1956 to 1982 and direct the 4th Respondent to pay pension from 1982 to 1989 for the service rendered in the Transport Corporation as per the Judgment in W.A.No. 3263 of 2002 dated 16.04.2008 and pass such further or other order or orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER IN W.M.P.(MD)No.10156 of 2017 in W.P.(MD)No.24868 of 2016:

To delete the name of the Petitioner / 2nd Respondent herein namely Director of Pension, Chennai - 600 035 from the cause list of the above Writ Petition on the ground of misjoinder of parties and thus render justice.



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

WEB COPY APPEARANCE OF PARTIES:

For Petitioner : Ms. D. Geetha

For Respondents : Mr.J.Ashok,
Additional Government Pleader for R1&R2

: Mr.K.Sathya Singh for R3

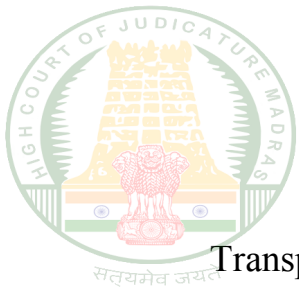
: Mr.S.C.Herold Singh
for R4 in W.P.(MD)No.24868 of 2016

COMMON JUDGMENT

Heard. Since the issue raised in all three writ petitions is identical, they are disposed of by this common order.

2. These three writ petitions have been filed by retired employees of the erstwhile Tamil Nadu State Transport Department, seeking the benefit of pension under the Madras Liberalised Pension Rules, 1960 for the period of service rendered by them in the Transport Department prior to their absorption in various Transport Corporations.

3. The facts are broadly similar. In W.P.(MD) No. 24812 of 2016, the petitioner was working as a Conductor in the Tamil Nadu State



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

Transport Department in the year 1967. His services were later deputed to the State Transport Corporation, where he continued to serve until his retirement on 30.04.1996. It was only thereafter, at the age of 78 and nearly two decades post-retirement, that the petitioner filed the present writ petition, claiming entitlement to pension as a retired Government servant.

4. In W.P.(MD) No. 24869 of 2016, the petitioner was working as a Driver in the Tamil Nadu State Transport Department in the year 1968. His services were subsequently deputed to the State Transport Corporation, where he continued until his retirement on 31.07.2005. It was only thereafter, at the age of 69 and after a lapse of 11 years from the date of retirement, that the petitioner filed the present writ petition, seeking pension as a retired Government servant.

5. In W.P.(MD) No. 24868 of 2016, the petitioner entered service in the Tamil Nadu State Transport Department in the year 1956. His services were subsequently deputed to the State Transport Corporation, where he continued until his retirement in the year 1989. It was only thereafter, at the age of 83 and after a gap of 27 years from the date of

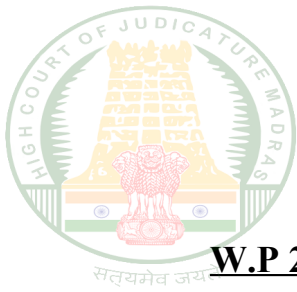


W.P.(MD) Nos.24812, 24869 & 24868 of 2016

retirement, that the petitioner filed the present writ petition, seeking pension as a retired Government servant, claiming parity with one Mr. Jesurathinam, who was granted such relief in W.A. No. 3263 of 2002 dated 16.04.2008.

6. Learned counsel for the petitioners submits that none of them exercised any option under G.O.Ms. No. 212, Transport Department, dated 28.03.1974, opting out of the pension scheme, and hence, they ought to be deemed to have continued under the Madras Liberalised Pension Rules. Reference is also made to G.O.Ms. No. 378, Finance Department, dated 18.04.1975, and the judgment of the Hon'ble Supreme Court in ***Government of Tamil Nadu v. M. Ananchu Ansari***, reported in **(2003) 10 SCC 503**, which fixed 01.04.1982 as the uniform cut-off date for reckoning Government pension eligibility.

7. In the W.P(MD)Nos. 24812 & 24869 of 2016 on receiving notice on behalf of the Respondents, a counter affidavit has been filed dated 23.12.2020. In paras 4 and 5, 4 to 6 of the counters respectively, the circumstances under which the Petitioner was not eligible to draw government pension is set out as follows:-



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

W.P 24812 of 2016

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“4. I submit that he has already been sanctioned a sum of Rs.788/- towards OSSR Gratuity for the service rendered by him in erstwhile Tamilnadu State Transport Department upto 14.09.1975 considering the option given by him vide Government Lr.No.76248/TBC5/87 dated 21.09.1988 and also settled a sum of Rs. 1454/- towards belated payment of interest on OSSR Gratuity and the indl is drawing pension under EPF Scheme 1995.

5. I submit that as per the G.O. Ms. No. 212 Transport Department dated 28.03.1974 Gratuity under OSSR Scheme with double share of Government PF has been settled to the above retired person. Further, he Knowing well about the fact of the settlement, the petitioner has been received OSSR Gratuity and PF both share i.e employee and employer share as per the option given by him for OSSR.”

W.P No. 24869 of 2016

“4. I submit that he has already been sanctioned a sum of Rs.840/- towards OSSR Gratuity for the service rendered by him in erstwhile Tamilnadu State Transport Department from 25.01.1968 to 30.04.1975 considering the option given by him vide Government Lr.No.83979/RWII-6/86 dated 24.04.1988 and also settled a sum of Rs. 1476/- towards belated payment of interest on OSSR Gratuity and the indl is drawing pension under EPF Scheme 1998.

5. I submit that as per the G.O. Ms. No. 212 Transport Department dated 28.03.1974 Gratuity under OSSR Scheme with double share of Government PF has been settled to the above retired person.

6. I submit that he knowing well about the fact of the settlement, the petitioner has been received OSSR Gratuity and PF both share i.e. employee and employer share as per the option given by him for OSSR.”



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

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8. In the W.P.(MD)No.24868 of 2016 on receiving notice on behalf of the Respondents, a counter affidavit has been filed dated 23.12.2020. In paras 4, 5 and 10 of the counter, the circumstances under which the Petitioner was not eligible to draw government pension is set out as follows:-

“4. I submit that he has already been sanctioned Government pension for the service rendered by him in erstwhile Tamilnadu State Transport Department from 01.01.1958 to 14.09.1975 onwards and also settled with PF-Employer share for his Corporation service.

5. I submit that adding to this, 15% interest on belated payment of pensionary benefits has also been settled.

.....

10. I submit that the request of the petitioner for sanction of enhanced rate of Government pension by adding the Corporation service up to 31.03.1982 could not be complied with since he is getting Government pension for completion of more than 10 years of regular service up to 14.09.1975 vide G.O.Ms.No.1028 Transport Department dated 23.09.1985.”

9. The plea of the petitioners in all these writ petitions rests on the contention that since they did not expressly opt out of the Government pension scheme, they must be treated as deemed pensioners under the Madras Liberalised Pension Rules, 1960. This submission cannot be accepted. The materials on record establish that the petitioners had continued in service in the Corporations well beyond 01.04.1982 without



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

raising any protest; they had received retirement benefits under the Corporation's contributory schemes, including gratuity and employer's share of provident fund or Corporation pension; and there is no credible dispute raised that they were coerced or misled. Once an employee has consciously opted for the OSSR scheme and availed monetary benefits in lieu of pension, it is not open to them, after retirement, to resile from such option and claim pensionary rights under the Liberalised Pension Rules. Such an inconsistent claim is barred by the principles of estoppel and election. Recognition of such a claim would also pave the way for impermissible duplicity of benefits, which the law expressly forbids.

10. In W.P.(MD) No. 24868 of 2016, learned counsel for the petitioner has also relied upon a Division Bench judgment in W.A. No. 3263 of 2002, dated 16.04.2008, to contend that the petitioner is entitled to be paid pension for the post-1982 period by the Corporation as was done in the case of one Mr. Jesurathinam. That case, however, turned on specific concessions by the employer Corporation and factual admissions therein. No such factual or legal parity has been demonstrated here.



W.P.(MD) Nos.24812, 24869 & 24868 of 2016

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11. Under the said circumstances, the Petitioners are not eligible for getting any pension as sought for in the Writ Petitions. Besides the writ petitions are liable to be dismissed on the ground of delay and latches. Hence, W.P.(MD)Nos.24812, 24869 and 24868 of 2016 stand dismissed. However, there will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

11.07.2025

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

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W.P.(MD) Nos.24812, 24869 & 24868 of 2016

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To

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Transport Department,
Secretariat,
Fort St. George,
Chennai - 600009.

2. The Director,
Directorate of Pension,
259, Anna Salai 3rd Block,
2nd Floor, Teynampet,
Chennai – 600006.

3. The Managing Director,
Tamilnadu State Express Transport Corporation,
Pallavan Illam,
Pallavan Salai,
Chennai - 600002.

4. The Pension Administrator,
Tamilnadu State Express Corporation Pension Fund,
Pallavan Illam,
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W.P.(MD) Nos.24812, 24869 & 24868 of 2016

DR. A.D. MARIA CLETE, J.

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W.P. (MD) Nos.24812, 24869 & 24868 of 2016
and
W.M.P. (MD) No.10156 of 2017

11.07.2025