



W.P(MD)Nos.26765 of 2022 to 26792 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.26765 to 26792 of 2022

W.P(MD) No.26765 of 2022:-

Mayilupillai.S

... Petitioner

Vs

1.The Secretary to Government,
Transport Department,
Government of Tamilnadu,
Fort St.George, Chennai-9.

2.The Management of Tamilnadu,
State Transport Corporation (Tirunelveli) Limited,
Represented by its Managing Director,
Tirunelveli.

3.The General Manager,
Tamilnadu State Transport Corporation(Tirunelveli) Ltd.,
Nagercoil Region,
Nagercoil.

4.The Principal Accountant General (A and E),
Office of Account General,
361, Anna Salai, Chennai - 18.

...Respondents



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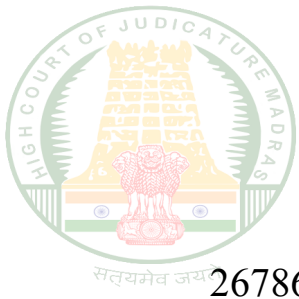
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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay the pensionary benefits to the petitioner for the service rendered by him as erstwhile employee in the 1st respondent Transport Department from 21.12.64 to 31.03.1982 and accordingly to pay him monthly pension w.e.f. 01.01.1988, with arrears and other consequential benefits, together with interest at the rate of 12% per annum.

For Petitioner	: Mr.B.Arunachalam
For R1	: Mr.K.Balasubramani
	Special Government Pleader
For R2 & R3	: Mr.D.Jebaraj
For R4	: Mr.P.Gunasekaran

COMMON ORDER

The petitioners, who are retired employees of the respondent Transport Corporation have filed these writ petitions, for a Mandamus, directing the respondents to pay the pensionary benefits to them, by calculating their services rendered in the respondent Transport Department. The petitioner in WP(MD) No.



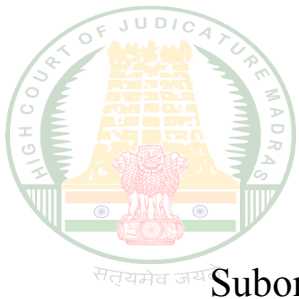
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26786 of 2022, also a retired employee of the respondent Corporation, has approached this Court challenging the order passed by the respondent Corporation, dated 16.03.2020, denying the pensionary benefits under the Madras Liberalized Pension Rules, 1960, by the respondent Corporation.

2. Since all these writ petitions are filed by the retired employees of the Transport Department and the issue involved in all these writ petitions are one and the same, these writ petitions are taken up together and disposed of by this common order.

3. The case of the petitioners is that the employees of the Tamil Nadu State Transport Department were governed by "Operational Subordinate Service Rules, 1960 (OSSR) (Non Pensionary Contributory provident Fund Scheme). The Government has decided to extend pensionary benefits to the erstwhile Tamil Nadu State Transport Department employees under Madras Liberalized Pension Rules, 1960, as per TSTD Operation

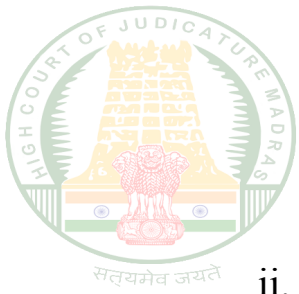


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Subordinated Retiring Invalid and Compassionate Gratuity (Non-Pensionable) Rules. Accordingly a Government Order in G.O.Ms.No. 212, Transport Department, dated 28.03.1974 has been issued, wherein, liberty was granted to the employees either to remain in the OSSR or they can opt for Madras Liberalized Pension Rules, 1960. The said Government Order also reads that those, who do not exercise option will be automatically covered under the Madras Liberalized Pension Rules, 1960. According to the petitioners, they have not opted to remain in the old scheme, namely, OSSR and therefore, they are entitled for pensionary benefits under the Madras Liberalized Pension Rules, 1960. They have submitted representations to the respondents to that effect. However, the respondents have not acted upon. Therefore, the petitioners have approached this Court with these writ petitions. The learned counsel for the petitioner has relied on the following judgments of this Court in order to substantiate their case.

- i. Order of this Court in MP(MD) No.1 of 2010 in WA(MD)SR No.40406 of 2010

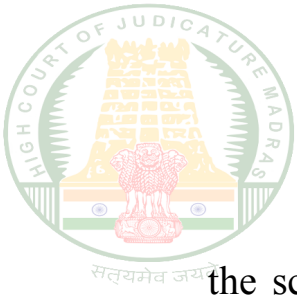


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- ii. Order of the Division Bench in WA(MD) Nos.776 to 778 of 2011, dated 29.09.2015
- iii. Order of this Court in WP(MD) No.22653 of 2017
- iv. Order of this Court in WP(MD) No.7343 of 2018
- v. Order of the Honourable Supreme Court in SLP 27285/2011, dated 07.05.2014.

4.The learned counsel appearing for the respondent Corporation submits that this benefit of pension under the Madras Liberalized Pension Rules, 1960 was provided to the erstwhile Tamil Nadu State Transport Department employees only as per Government Order in G.O.Ms.No.212, Transport Department, dated 28.03.1974. The aforesaid Government Order refers that the workers have to opt either to remain in the existing scheme of OSSR or under the Madras Liberalized Pension Rules, 1960. The petitioners have exercised their option on 26.12.1974 to remain under OSSR and therefore, these petitioners are not entitled for the pensionary benefits under the Madras Liberalized Pension Rules, 1960. He further submits that an outer limit prescribed for opting any one of



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the scheme was initially fixed as 30.06.1974 and thereafter, it was extended by the Government in a letter dated 17.12.1974, upto 31.12.1974. The petitioners have exercised their option on 26.12.1974 to remain in OSSR. He further submits that the petitioners have approached this Court after a period of 24 years and therefore, they are not entitled for the relief. In order to substantiate his contention of delay in approaching this Court, the learned counsel has relied on the order of Division Bench of this Court in WA.No.1245 of 2018 and CMP No.1224 of 2018, dated 06.09.2018.

5.The learned counsel appearing for the Accountant General submits that if any proposal has been made by the Department, it would be considered.

6.This Court considered the rival submissions made and also perused the materials placed on record.



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7.The petitioners, who are retired employees of the Transport Corporation have approached this Court, seeking pensionary benefits under Madras Liberalised Pension Rules 1960. It is an admitted fact that the pension benefits under the Madras Liberalised Pension Rules were extended to the employees of the Tamil Nadu State Transport Department, vide G.O.Ms.No.212, Transport Department, dated 28.03.1974. Paragraph 6 of the above Government order reads as under:-

“6.However, to ensure that all existing employees given the option to continue to be governed by the existing terms and conditions of for some reason, they choose to do so, Government direct that all the employees converted in paragraph 2(a) (c) of this order will have the option to request to be governed by the existing terms and conditions of service. This option will be exercised on or before 30.06.1974. Those, who do not exercised any option shall automatically come under the Liberalized Pension Rules, 1960. Option cannot be exercised after 30.06.1974 and option once exercised is final.”



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8.The petitioners claim that they have not opted to remain under the old scheme as on 30.06.1974 and therefore they are eligible for pensionary benefits under the Madras Liberalized Pension Rules 1960. On the side of the respondents, it is stated that the petitioners have opted to remain in OSSR, in the month of December 2024 and also claimed that the last date fixed for opting has been subsequently extended by the Government by an order dated 17.12.1974, upto 31.12.1974. In the event, if these petitioners have not opted to remain in OSSR within the stipulated time, then they are entitled for the benefits under the Madras Liberalized Pension Rules, 1960. It appears that as per the orders of the Division Bench of this Court in W.A.SR(MD)No.40406 of 2010, dated 28.01.2011 and WA(MD) Nos. 776 to 778 of 2011, dated 29.09.2015, similarly placed persons have been granted with the pensionary benefits as per the aforesaid Government Order.

9. In view of the above, these writ petitions are disposed of with a direction to the respondent Corporation to consider the



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case of the petitioners in the light of the Judgments passed by this Court in W.A.SR(MD)No.40406 of 2010, dated 28.01.2011 and WA(MD) Nos. 776 to 778 of 2011, dated 29.09.2015, within a period of three months from the date of receipt of a copy of this common order. No costs.

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NCC:Yes/No

Index:Yes

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B.PUGALENDHI, J.

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Common Order made in
W.P(MD)Nos.26765 to 26792 of 2022

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