

CASE NO.:

Appeal (civil) 494 of 2002

Appeal (civil) 8508 of 2003

PETITIONER:

The State of Tamilnadu

RESPONDENT:

S. Sebastin & Ors.

DATE OF JUDGMENT: 29/10/2003

BENCH:

S. RAJENDRA BABU & P. VENKATARAMA REDDI

JUDGMENT:

JUDGMENT

With

arising out S.L.P.(C) No. 21676/2001

P. Venkatarama Reddi, J.

Leave granted in S.L.P.(C) No. 21676/2001.

1. The respondents were appointed as Conductors/ Drivers on daily-wage basis in the then Madras State Transport Department (MSTD). Their services were regularized one or two years later. When the Pallavan Transport Corporation and Kattabomman Transport Corporation were formed, they were sent on deputation to the said Corporations which were bifurcated subsequently and they were permanently absorbed in the service of the said Corporations after calling for options from the respondents. By G.O.No. 1028 (Transport) dated 23.9.1985 read with G.O.No. 284 (Finance) dated 31.3.1980, the cutoff date for the purpose of eligibility to pension in respect of the erstwhile State Transport Department employees was fixed as 1.5.1975. Later on i.e., by G.O.MS.No. 250 (Transport) dated 18.11.1996 the crucial date was changed to 15.9.1975. If the date 1.5.1975 or 15.9.1975 is to be taken into account, the respondents will become eligible for pensionary benefit only if their service was counted from the date of initial appointment, otherwise, they would not be completing ten years of qualifying service by 15.9.1975. As the appellants took the stand that the daily-wage service will not count in reckoning the qualifying service as per the Tamilnadu Pension Rules, the respondents filed writ petitions seeking direction to calculate their qualifying service in the MSTD from the date of their initial appointment as daily-wage employees instead of counting it from the date of their absorption on regular basis in Government service.

2. Writ appeal No. 545 of 1998 which is the subject matter of S.L.P.(C) No. 21676 of 2001 filed by the respondents herein was allowed and directions were issued to calculate the writ petitioners' qualifying service from the date of their initial entry into service and to sanction and release the pensionary benefits accordingly. Writ appeal No. 1411 of 1994 which has given rise to Civil Appeal No. 494 of 2002 filed by the State of Tamilnadu against the order of the learned single Judge allowing the writ petition was dismissed.

3. It becomes practically unnecessary to go into the question whether the daily-wage service should also be counted towards qualifying service for the reason that by a

judgment pronounced today in Civil Appeal Nos. 1444-1445/1999 etc., we have held, affirming the view of the High Court that the fixation of the cutoff date as 1.5.1975 or 15.9.1975 is unconstitutional and we directed that the eligibility to pension should be assessed with reference to the cutoff date 1.4.1982. If that date is taken into account, indisputably, the respondents will be having sufficient qualifying service to earn pension as per the State Government rules, even if the daily-wage service is excluded.

4. The appeals are therefore disposed of in terms of directions given in our judgment pronounced today in Civil Appeal Nos. 1444-1445/1999 etc. No costs.