

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3161-3165/2019

KERALA STATE ROAD TRANSPORT
CORPORATION ETC.

APPELLANT(S)

VERSUS

M. RAJAGOPALAN NAIR, DIED THROUGH LRS.
ETC ETC & ORS

RESPONDENT(S)

WITH

C.A. No. 3180/2019, C.A. No. 3177/2019,
C.A. No. 3175/2019, C.A. No. 3178/2019,
C.A. No. 3179/2019, T.P.(C) No. 712/2018,
C.A. No. 3167/2019, C.A. No. 3176/2019,
C.A. No. 3166/2019, C.A. No. 3174/2019

O R D E R

I.A. NO. 87117/2021- for recalling order dated 07.07.2021 in I.A. No. 71662/2021 for impleadment is dismissed.

I.A. 156212/2021- IMPLEADMENT, IA. NO. D. NO.29899/2022- FOR IMPLEADMENT, I.A. NO. 29900/2022- FOR IMPLEADMENT

Applicants are permitted to intervene.

The applications stand disposed of accordingly.

C.A. NOS. 3161-3165/2019

We are faced with a scenario which is prevalent in respect of all transport corporations. These corporations are not made into financially viable organizations on account of the social

perspective that the public transport should be kept at a base level to assist the weaker sections of the society. If that be so, it cannot be expected that they will be financially viable and thus funds have to be put in by the State Government like any other social scheme project. It is thus difficult for us to appreciate that on one hand the corporations are made not financially viable on account of the public need perspective and yet it is stated that they are lacking in funds. They will naturally be lacking in funds in this scenario and thus the State has to put in money to deal with the consequences of keeping the transport charges at their minimum.

Having said so we are also conscious of the financial restrictions which a State faces in trying to balance out the funds to be put in different schemes and one can only say that this is only one such scheme. But that should not imply that the persons who perform their task as employees of this corporation should suffer.

It is in the process of negotiation that a scheme has been worked out and because the scheme has taken time to work out, it has been made applicable from July, 2021 as the pension scheme.

Learned ASG on instructions states that the State Government and the corporation stick by their

obligation to make it applicable from July, 2021 and the money outflow will start from April, 2022. Thus it is submitted that insofar as the arrears are concerned, that will be an additional financial obligation.

We have seen the note submitted today in pursuance of our order dated 03.12.2021. Instead of applying the scheme from the date of retirement of these persons, what was proposed was that for the arrears, an *ex gratia* amount may be worked out based on the different periods of service. It is in this context that the appellant corporation has proposed the following:

- a) The arrears of pension will be worked out and 10% of that amount would be paid as *ex gratia* amount;
- b) the *ex gratia* amount would not exceed Rs. 50,000/-, and
- c) the amount would be paid in 24 installments.

We have heard learned counsel for the parties in the aforesaid context.

As far as the third aspect is concerned, which is installments, learned counsel for the appellants has volunteered to abide by any reduced installments as this Court may deem appropriate. We consider appropriate to reduce the installments to 12 installments.

The matter of concern is firstly the 10% *ex gratia* payment which is pleaded by the respondents to be too meagre. This is coupled with the second aspect of there being a sealing of Rs. 50,000/-. On our query learned counsel for the State submits that this figure of Rs. 50,000/- with 10% of the total amount of arrears of pension would not be exceeded broadly for persons who have put in 11-12 years of service. However, there are a reasonable number of persons who may have worked for much longer years to entitle them for pensionable service which may go upto about 17 years. We do believe that it would be unfair to them to treat them at par with somebody who has put in 11 to 12 years of service.

The other aspect is arising from the amount payable as *ex gratia* amounts. The appellant corporation should be conscious of the fact that the impugned order does not favour them. That being the position we have to work out some equities and that can only be done by exercising our powers under Article 142 of the constitution of India.

We are thus of the view that arrears payable should be quantified at 20% of the arrears of the pension amount and accordingly the maximum sealing limit should also be increased generally to Rs. 1

lakh. However, that would mean that the persons who have put in more than 11-12 years of service would be treated at par with them and thus to take care of their interest we increase the maximum sealing limit to Rs. 1,50,000/-.

The first installment of arrears should begin from first week of May, 2022 to give time to the corporation to work it out.

The appeals stand disposed in the aforesaid terms.

At the request of learned counsel appearing for some of the parties, it is clarified that such of the employees who do not get benefit of the scheme may make their own representations to the appellant Corporation.

C.A. No. 3180/2019, C.A. No. 3175/2019, C.A. No. 3177/2019, C.A. No. 3178/2019, C.A. No. 3179/2019, T.P.(C) No. 712/2018, C.A. No. 3167/2019, C.A. No. 3176/2019, C.A. No. 3166/2019, C.A. No. 3174/2019

These matters are disposed of in terms of the order passed above in C.A. Nos. 3161-3165/2019 as covered under the same scheme.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI,
MARCH 02, 2022.

ITEM NO.1

COURT NO.6

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3161-3165/2019

KERALA STATE ROAD TRANSPORT CORPORATION ETC.

Appellant(s)

VERSUS

M. RAJAGOPALAN NAIR, DIED THROUGH LRS. ETC ETC & ORS. Respondent(s)

([FOR FURTHER DIRECTIONS])

I.A. NO. 87117/2021- for recalling order dated 07/07.2021 in I.A. No. 71662/2021 for impleadment)

I.A. 156212/2021- IMPLEADMENT

I.A. NO. 156259/2021- FOR FILING ADDL. DOCUMENTS

I.A. NO. 157036/2021- FOR EXEMPTION FROM FILING ATTESTED/NOTARIZED AFFIDAVIT)

IA. NO. D. NO.29899/2022- FOR IMPLEADMENT

I.A. NO. 29900/2022- FOR IMPLEADMENT)

WITH

C.A. No. 11338-11339/2016 (XI-A)

C.A. No. 3175/2019 (XI-A)

C.A. No. 3180/2019 (XI-A)

C.A. No. 3177/2019 (XI-A)

C.A. No. 3178/2019 (XI-A)

C.A. No. 3179/2019 (XI-A)

T.P.(C) No. 712/2018 (XVI-A)

(FOR ADMISSION and IA No.63122/2018-EX-PARTE STAY

C.A. No. 3167/2019 (XI-A)

(FOR ADMISSION and I.R.)

C.A. No. 3176/2019 (XI-A)

C.A. No. 3166/2019 (XI-A)

C.A. No. 3174/2019 (XI-A)

Date : 02-03-2022 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH**

For Appellant(s)

**Ms. Aishwarya Bhati, Ld. ASG
Mr. Deepak Prakash, AOR
Ms. Divyangna Malik, Adv.
Mr. Nachiketa Vajpayee, Adv.
Mr. Praveen Arya, Adv.
Ms. Manisha Chava, Adv.
Mr. Pawan Kr. Dabas, Adv.
Mr. Vaijyant Khanna, Adv.
Ms. Vishnu Priya, Adv.**

For Respondent(s)

**Mr. K.B. Sounder Rajan, AOR
Mr. Mahesh Kumar, Adv.
Mr. Sudarshan Rajan, Adv.
Mrs. Pushpa Rajan, Adv.**

Mr. Ramesh Babu M. R., AOR

**Dr. M.P. Raju, Adv.
Dr. P. George Giri, AOR
Ms. Jasmin Kurian Giri, Adv.
Mr. Linto K.B., Adv.**

**Mr. Rajeev Mishra, Adv.
Mr. Sanand Ramakrishnan, AOR
Mr. Sunil Narayanan, Adv.**

Mr. E.M.S. Anam, AOR

**Mr. C. K. Sasi, AOR
Mr. Abdulla Naseeh V.T., Adv.
Ms. Meena K.P., Adv.**

Mr. Prashant Padmanabhan, AOR

**Mr. Wills Mathews, Adv.
Mr. Ginesh P., Adv.
Ms. Shweta Garg, AOR**

**Mr. Jogy Scaria, AOR
Ms. Beena Victor, Adv.
Mr. Keerthpreyas E., Adv.
Ms. Preya M., Adv.**

**Mr. Biju Thankappen, AOR
Mr. K Sree Krishna, Adv.**

Dr. Sumant Bhardwaj, Adv.

Ms. Mridula Ray Bharadwaj, AOR
Mr. Vedant Bhardwaj, Adv.
Mr. Vipul, Adv.

Mr. V. K. Biju, AOR
Ms. Ria Sachthey, Adv.
Mr. Chetanya Singh, Adv.
Mr. Parthsarathi M Saraf, Adv.
Mr. Abhay Pratap Singh, Adv.
Mr. Shaji George, Adv.
Ms. Vijay Laxmi, Adv.
Mr. Umang Tripathi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. NO. 87117/2021- for recalling order dated 07/07.2021 in I.A. No. 71662/2021 for impleadment is dismissed.

I.A. 156212/2021- IMPLEADMENT, IA. NO. D. NO.29899/2022- FOR IMPLEADMENT, I.A. NO. 29900/2022- FOR IMPLEADMENT

Applicants are permitted to intervene.

The applications stand disposed of accordingly.

CIVIL APPEAL NOS. 3161-3165/2019

The appeals stand disposed of in terms of the signed order.

Pending applications stand disposed of.

C.A. No. 3180/2019, C.A. No. 3175/2019, C.A. No. 3177/2019, C.A. No. 3178/2019, C.A. No. 3179/2019, T.P.(C) No. 712/2018, C.A. No. 3167/2019, C.A. No. 3176/2019, C.A. No. 3166/2019, C.A. No. 3174/2019

These matters are disposed of in terms of the order passed above in C.A. Nos. 3161-3165/2019

as covered under the same scheme.

Pending applications if any, stand disposed of.

C.A. Nos. 11338-11339/2016

Learned counsel for the appellant states that as they are endeavouring to sort out the issue of pensionable service of retired employees, they appear to have lost sight of this matter. The other connected matters (C.A. Nos. 3161-3165/2019 Etc.) have been disposed of today by us.

The question which arises in the present case is that the persons who were recruited through the employment exchange to the post of Tyre Retreaders- Grade II on the daily wage basis but paid the same emoluments from 1998 but regularized on 22.03.2010 would be entitled to reckon their service prior to 2010 for purposes of pension under the scheme formulated by the appellants.

In view thereof, list on 09.03.2022.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]