

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32681 of 2015

Mr.S.Narayanan

... Petitioner

Vs.

- 1 The Government of Tamil Nadu,
Rep by its Principal Secretary, Transport
Department, Secretariat, Fort St. George
Chennai 600 009.
- 2 The Managing Director,
Tamil Nadu State Transport Corporation (VPM)
Ltd., 3/137 Salamedu, Valuthareddy - Post,
Villupuram 605 602.
- 3 The Financial Advisor and
Chief Accounts Officer, Tamil Nadu State
Transport Corporation (VPM) Ltd., 3/137
Salamedu, Valuthareddy - Post,
Villupuram 605 602.
- 4 The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar House,
Pallavan Salai, Chennai 2.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the directing the 2nd, 3rd and 4th respondents to pay the gratuity amount, encashment of leave salary, pension, commutation amount with 18% interest on delayed payment to the petitioner from the date of retirement to till the date of settlement to the petitioner who retired on 31.7.2014 as Superintendent (Administration).

For Petitioner : Mr.V.S.Jagadeesan

For Respondents : Mr.S.Gunasekaran for R1
Government Advocate
Mr.R.K.Gandhi for R2 to R4

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner was initially selected and given appointment to the post of Junior Assistant on 02.01.1985 in the erstwhile services of the Pattukottai Azhagiri Transport Corporation Limited and his services were regularised on 02.01.1986 and he was transferred to Thanthai Periyar Transport Corporation Limited in the same capacity and got his promotion as Senior Assistant. In the year 1992, the above said Corporation was bifurcated and a new Transport Corporation came into being namely, Puratchi Thalaivar MGR Transport Corporation and he was transferred to the said Corporation and got his promotion as Selection Grade Assistant and further promotion to the post of Superintendent on 14.01.2011 and after putting in 29 years 6 months and 29 days of service, he retired from service on attaining the superannuation on 31.07.2014.

3.The grievance expressed by the petitioner is that though he has retired from service as early as on 31.07.2014, he was paid with a sum of Rs.2,28,790/- being his contribution towards provident fund and the following terminal benefits are due and payable to him:

S.No.	Terminal benefits	Amount due Rs.
1.	Gratuity	6,32,000/-
2.	Pension commutation	2,95,000/-
3.	Encashment of Leave Salary	2,60,000/-
	Total	11,87,000/-

4.The petitioner would further state that he underwent a check-up conducted by the Madras Medical Mission where, he was diagnosed with coronary artery disease, triple vessel disease for which, he underwent open heart surgery (bye-pass surgery) and incurred a sum of Rs.4,00,000/- and he also has to meet out the educational expenses of his son and for want of terminal benefits, he is suffering very much and hence, came forward to file this writ petition.

5.The learned counsel appearing for the petitioner has drawn the attention of this Court to various judgments rendered by the Hon'ble Supreme Court of India which lay down the order that in the event of belated settlement of terminal benefits, the employer has to pay the interest and prays for appropriate orders.

6.Heard the submissions of Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the first respondent and Mr.R.K.Gandhi, learned counsel who accepts notice on behalf of the

respondents 2 to 4 and would submit that on account of the poor financial condition of the Transport Corporation, the retirement benefits due and payable to the employees are not being paid on time and also drawn the attention of this Court to the common judgment made in W.A.(MD) Nos.383 to 457 of 2015 wherein, the Hon'ble Division Bench of the Madurai Bench of this Court has directed the payment of terminal benefits in instalments.

7.This Court carefully considered the rival submissions and also perused the materials placed before it.

8.The fact remains that the petitioner has attained the age of superannuation on 31.07.2014 and he was paid with a sum of Rs.2,28,790/- representing the provident fund amount and according to him, a sum of Rs.11,87,000/- towards terminal benefits are still due and payable to him.

9.In the considered opinion of this Court, the respondent being the employer is bound to pay the retirement and terminal benefits due and payable to the petitioner on time and the petitioner is also in urgent need of the same for the reasons he has underwent bye-pass surgery by incurring a sum of Rs.4,00,000/- and also has to meet out the educational expenses of his son.

10.It is also relevant to extract the above cited judgment namely, the order dated 12.06.2015 made in W.A.(MD) Nos.383 to 457 of 2015 which reads as follows:

"The learned Additional Advocate General submits that he has obtained written instructions vide letter No.7945/E/2015-2 dated 11/6/2015 that the terminal benefits of the appellants would be settled through twelve equal monthly instalments, carrying interest of 6% p.a.

2. The said statement is thus taken on record and the respondents will be bound by the same. We have to keep in mind the judicial pronouncement of the Honourable Supreme Court in D.D.TEWARI (D) THR. LRS. Vs. UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS {2014 (9) SCALE - 78}, wherein it is held that in case of any delay in making the payment of the instalments, the interest payable would become 18% p.a., for the delayed period apart from any other remedy which may be available to the appellants for non-compliance of undertaking given to this Court.

3. The instalments to be paid from July 2015 and each instalments should be paid on or before 7th of each month.

4. The writ appeals are disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed."

11.This Court in the light of the above facts and circumstances, directs the respondents 2 to 4 to pay the retirement and terminal benefits due and payable to the petitioner in the light of the above cited judgment and pass orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

12.The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

- 1 The Principal Secretary,
The Government of Tamil Nadu,
Transport Department, Secretariat, Fort St. George
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- 2 The Managing Director,
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Pension Fund Trust, Thiruvalluvar House,
Pallavan Salai, Chennai 2.

1 cc to Mr.V.S. Jagadeesan, Advocate, Sr. 56098

1 cc to Mr.R.K. Gandhi, Advocate, Sr.56215

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KSJ(CO)
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