



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.17902 of 2016

M.Raju

... Petitioner

-vs-

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Transport Department and Chairman of Board of Directors of
State Transport Undertakings,
Fort St.George, Chennai-9.
2. The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.
3. The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region, Kumbakonam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to settle the petitioner's earned leave salary of Rs. 33,840/- for 30 days in respect of the years 2011-2012, 2012-2013 together with interest at the rate of 18% per annum payable from the date of retirement to till the date of actual payment.

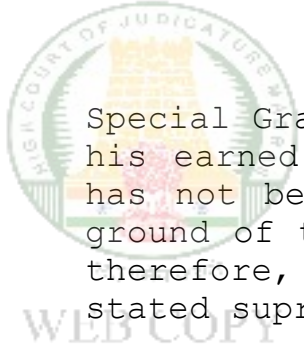
For Petitioner : Mr.A.Rahul

For Respondents : Mr.D.Sivaraman
Standing Counsel

O R D E R

This writ petition has been filed, seeking to direct the respondents to settle the petitioner's earned leave salary of Rs. 33,840/- for 30 days in respect of the years 2011-2012, 2012-2013 together with interest at the rate of 18% per annum payable from the date of retirement to till the date of actual payment.

2. The case of the petitioner is that he joined the services of the 2nd Respondent Corporation as Craftsman Apprentice with effect from 17.03.1980 and after periodical promotion, he was promoted as



Special Grade Tradesman and retired from service on 31.01.2014; that his earned leave salary of approximately Rs.33,840/- (for 30 days) has not been disbursed to him from 2011-2012 and 2012-2013 on the ground of the 2nd respondent Corporation facing financial crisis and therefore, the petitioner is before this Court, seeking the relief stated supra.

3. Learned counsel for the petitioner has relied upon a judgment of this Court in the case of **S.Saminathan vs. The State of Tamil Nadu, represented by its Secretary to Government and others [W.P. (MD) No.212 of 2016]** decided on 28.01.2016, by which, this Court directed the respondents therein to settle all the arrears due to the petitioner therein in twelve monthly installments. Learned counsel for the petitioner has submitted that in the case cited supra, no terminal benefits were granted to the petitioner therein after his superannuation and therefore, this Court directed the respondent therein to settle the amount in twelve monthly installments. Whereas in the present case on hand, only meagre amount of Rs.33,840/- towards earned leave surrender salary is due to the petitioner and therefore, the same may be directed to be settled to the petitioner in lump sum.

4. Learned Standing Counsel appearing for the respondents would contend that it is not in dispute that the petitioner is entitled to earned leave surrender salary and it has to be ascertained as to whether he has made any claim for disbursement of the said salary in the respective years, as there is no reference either in the affidavit as well as in the typeset of papers with regard to the forwarding of any letter / application, claiming the said amount. He has further submitted that it has to be ascertained as to whether the period for which leave salary is claimed in this writ petition has been included in the final settlement of surrender leave salary of 240 days after his retirement or not. Moreover, the respondent Corporation has been undergoing severe economical constraints, which is also one of the reasons for not releasing the amount.

5. The financial crisis cannot be the ground to deprive the benefit of surrender leave salary to the petitioner, especially when the claim of earned leave surrender salary for 15 days per year or 30 days once in two years has been admitted in the settlement effected under Section 12(3) of the Industrial Disputes Act, 1947.

6. Therefore, the respondents are directed to consider the claim of the petitioner for payment of the earned leave surrender salary in respect of the years 2011-2012 and 2012-2013 and pay the eligible amount to the petitioner as per the commitment made by the respondent under Section 12(3) settlement within a period of eight weeks from the date of receipt of a copy of this order.



7. With the above direction, this Writ Petition is disposed of.
No costs.

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/True copy/

Sd/-

Assistant Registrar (T&P)

Sub Assistant Registrar

To:

1. The Secretary to Government,
State of Tamil Nadu,
Transport Department and Chairman of Board of Directors of
State Transport Undertakings,
Fort St.George, Chennai-9.
2. The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.
3. The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region, Kumbakonam.

+1 cc to Mr.D.SIVARAMAN, Advocate, SR. 60483

+1 cc to Mr.A.RAHUL, Advocate, SR.60041

W.P(MD) No.17902 of 2016

SH/EM:19.12.2016:3P/6C