



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.10.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA
W.P (MD) No.19994 of 2016

WEB COPY

M.Mathivanan

... Petitioner

Vs.

1.Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.

2.The General Manager,

Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karur Region, Karur.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the Respondents to settle the petitioner's earned leave salary of Rs.1,18,278/- for 92 days from 2011-2016 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

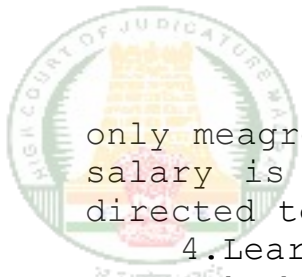
For Respondents : Mr.D.Sivaraman

ORDER

This writ petition has been filed, seeking to direct the respondents to settle the petitioner's earned leave salary of Rs.1,18,278/- for 92 days from 2011-2016 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 service of the 1st respondent Corporation as Junior Tradesman with effect from 01.05.1988 and after periodical promotion, he was promoted as Technical Level -5 and retired from service on 31.03.2016; that his earned leave salary of approximately Rs.1,18,278/- (for 92 days) has not been disbursed to him from 2011 to 2016 on the ground of the 1st respondent Corporation is 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.1,18,278/- 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. Moreover, the respondent Corporation has been undergoing severe economical crisis, 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 earned leave surrender 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/accepted 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 2011-2016 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, in one lumpsum.

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

Sd/-

Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To

1.Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karur Region, Karur.

+1 cc to MR.D.SIVARAMAN,ADVOCATE, SR NO:61964

+1 cc to MR.A.RAHUL,ADVOCATE, SR NO:62230