



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.10.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA
W.P(MD)No.19995 of 2016

WEB COPY

S.Poovalingam

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

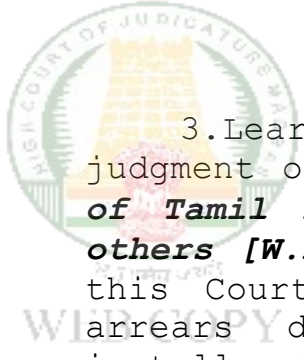
Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Mandamus, directing the
Respondents to settle the petitioner's earned leave salary of
Rs.74,580/- for 60 days in respect of the years 2010-2011, 2011-
2012, 2012-2013 and 2013-2014 together with interest 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.74,580/- for 60 days in respect of the years 2010-2011, 2011-
2012, 2012-2013 and 2013-2014 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 second respondent Corporation as Clerk with effect from
09.11.1981 and after periodical promotion, he was promoted as
Selection Grade Senior Assistant and retired from service on
30.06.2014; that his earned leave salary of approximately
Rs.74,580/- (for 60 days) has not been disbursed to him from 2010
to 2014 on the ground of the second 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. 74,580/- 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 2010-2014 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 lump sum.

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



To

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

+1 cc to MR.D.SIVARAMAN,ADVOCATE, SR NO:61965

+1 cc to MR.A.RAHUL,ADVOCATE, SR NO:62238

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:62322

smn

sva/cm/msa/01.02.2017/3p/7c

ORDER MADE IN
W.P (MD) No.19995 of 2016
19.10.2016(2/2)