



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2016

CORAM:

THE HONOURABLE Mr. JUSTICE S. VAIDYANATHAN

W.P. (MD) No. 24261 of 2016

WEB COPY

P.P.V. Velayudham

... Petitioner

Vs.

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

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to settle the petitioners earned leave salary of Rs. 66,180/- for 60 days from 2010 - 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

O R D E R

This writ petition has been filed, seeking a direction directing the respondents to settle the petitioner's earned leave surrender salary from 2010-2013 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 service of the respondents Corporation and retired from service on attaining the age of superannuation; that their earned leave salary have not been disbursed to them from 2010 to 2013 on the ground of the 1st 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 [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 petitioners has submitted that in the case cited supra, no terminal benefits were granted to the petitioners therein after his superannuation and therefore, this Court directed the respondents therein to settle the amount in twelve monthly installments. Whereas in the present cases on hand, only meagre amount 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 these writ petition has been included in the final settlement of surrender leave salary of 240 days after their retirement. Moreover, the respondents / Corporation have 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 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 2010-2013 and pay the eligible amount to the petitioner as per the commitment made by the respondents 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.

Sd/-
Assistant Registrar(P&A)

/True Copy/



To

1.The Managing Director,
The Tamil nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2.The General Manager,
The Tamil nadu State Transport
Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
Pudukottai.

+One cc to Mr.D.Sivaraman, Advocate, SR.No.82556

+One cc to Mr.A.Rahul, Advocate, SR.No.82268

nbj

RL/5C/3P/RR/9.3.2017

W.P. (MD) No.24261 of 2016

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