

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.08.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21540 of 2017

R.Nagarajan

.. Petitioner

Vs

1. The Principal Secretary to Government,
Department of Transport,
Secretariat, Fort St.George,
Chennai - 600 009.
 2. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, ramakrishna Road,
Salem 636 007, Salem District.
- .. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus directing the respondents to pay the petitioner 1) the difference in Death-Cum-Retirement-Gratuity of Rs.3,88,120/- with 24% interest from 30.09.2009 and the encashment of unearned leave on private affairs of Rs.1,20,510/- with 24% interest for the delayed payment from 30.09.2009 within a time frame.

For Petitioner : Mr.V.Ajoy Khose

For Respondents: Mr.K.Dhananjayan
Special Government Pleader - for R1
Mr.P.Paramasivadosh - for R2

O R D E R

The writ petitioner served as Senior Assistant Manager in the 2nd respondent Corporation and after completion of 33 years 7 months and 14 days of service, retired from service on 30.09.2009, and the learned counsel for the writ petitioner states that till today, the difference in Death-Cum-Retirement-Gratuity of Rs.3,88,120/- and the encashment of unearned leave on private affairs of Rs.1,20,510/- are not paid.

2. Learned counsel appearing for the respondent / Corporation pleads that due to financial crunch, they are unable to pay the terminal benefits due to his employees.

3. The terminal benefits are the right of an employee to lead his livelihood. An employee who was serving in the Corporation for more than three decades, is entitled for his livelihood. Life does not mean a mere animal life and it includes decent life as ensured under Article 21 of the Constitution of India.

4. The terminal benefits are not bounty and it is a deferred portion of wages for the services rendered by an employee. Hence, non payment of terminal benefits to the employees without any valid reason, is no doubt, violation of right to Life enshrined under Article 21 of the Constitution of India. The State being a modal employer, has to settle the benefits to its employees and immediately after their retirement and it is the duty mandated on the part of the State to settle the terminal benefits. Therefore, this Court is of the view that batch of writ petitions are filed before this Court seeking direction to pay terminal benefits and the attitude of the respondents driving these retired employees to approach this Court under Article 226 of the Constitution of India, is deprecated.

5. In view of the above, this Court is inclined to follow earlier directions granted by this Court and by following the terms stated therein. Accordingly, the Writ Petition stands disposed of and the respondents are directed to disburse the aforementioned retiral benefits to the petitioner herein, in twelve equal monthly instalments, in the light of the common judgment passed by this Court in W.A.(MD)Nos.383 to 457 of 2015 (K.Rajendran and others Vs. The Tamil Nadu State Transport Corporation, Madurai Limited rep. by its Managing Director, Madurai and others) dated 12.06.2015. It is also made clear that the first instalment shall commence from 01.10.2017. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

To

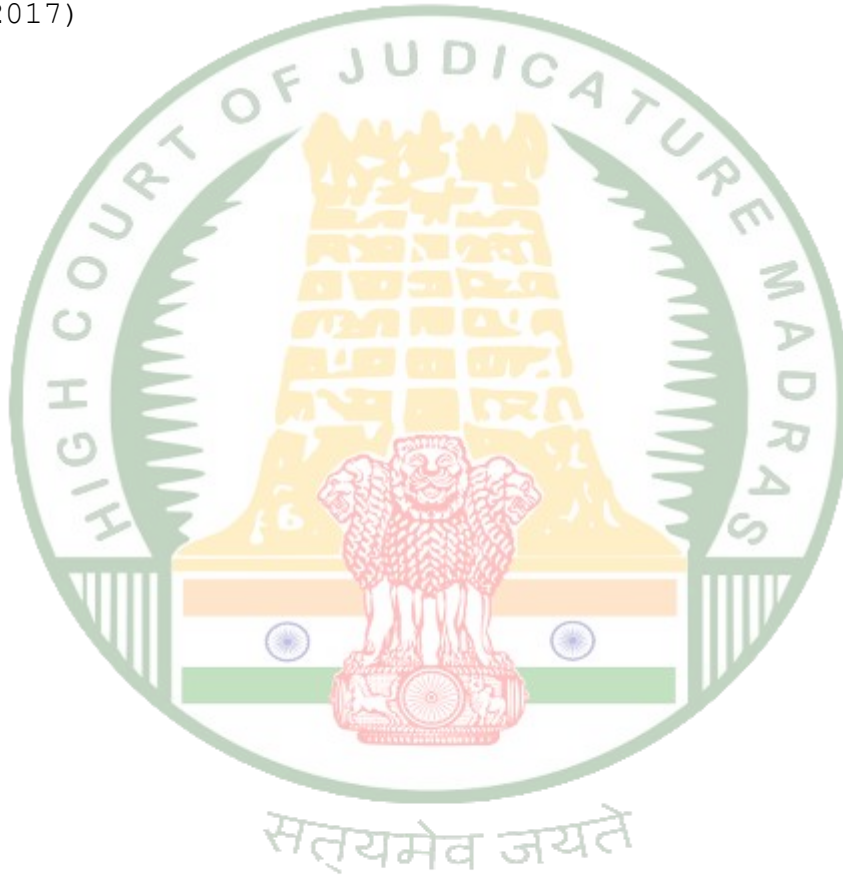
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+1cc to the Government Pleader, S.R.No.58512

W.P.N.21540 of 2017

SK(CO)
GN(11/09/2017)



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