

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2017

Coram

The Hon'ble Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.21862 of 2017

R.Kalaiselvan

...Petitioner

Vs.

1. The Principal Secretary to Government
Department of Transport
Secretariat, Fort St.George
Chennai - 600 009.

2. The Managing Director
Tamilnadu State Transport
Corporation (VPM) Ltd.,
3/137, Salamedu Village
Vazhudharreddy Post
Villupuram District.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to pay him the difference in Death-cum-Retirement-Gratuity of Rs.4,85,627/- with 24% interest from 30.06.2008 and the Encashment of Unearned Leave on Private Affairs of Rs.1,15,617/- with 24% interest for the delayed payment from 30.06.2008.

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 in Tamilnadu State Transport Corporation (VPM) Ltd., and retired from service on attaining the age of superannuation on 30.06.2008. He retired as a Divisional Manager and the learned counsel for the writ petitioner states that till today, the difference in Death cum Retirement Gratuity and encashment of unearned leave on private affairs is not disbursed to the writ petitioner without any valid reasons and that the writ petitioner was allowed to retire from service and his entitlement for the difference in Death cum Retirement Gratuity and encashment of unearned leave on private affairs is not paid till today.

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

3. The terminal benefits are right of an employee. A Divisional Manager, who served in the Corporation for more than three decades, is entitled for his livelihood. It does not mean a mere 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 i.e., difference in Death cum Retirement Gratuity and encashment of unearned leave on private affairs, to the employees without any valid reason, is no doubt, a 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 the 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 installments with effect from November 2017, 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 installment shall commence from November 2017. No costs.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

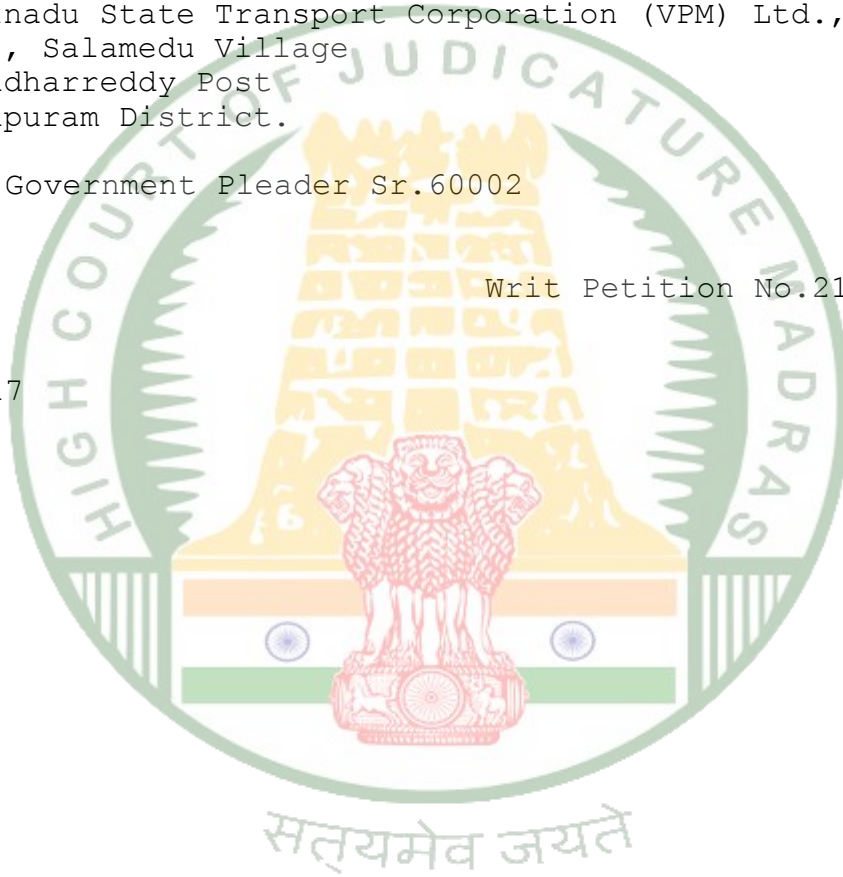
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To

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- + 1 cc to Government Pleader Sr.60002

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SS(CO)
EU 14.09.17



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