

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.2226 of 2017

V. Selvaraj

...Petitioner

Vs

- 1 The Government of Tamil Nadu
Rep. by the Secretary
Transport Department
Secretariat St. George Fort
Chennai - 600 009.
- 2 The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited
No.12 Ramakrishnan Road
Salem-636 007
- 3 The General Manager
Tamil Nadu State Transport Corporation
(Salem) Limited
Dharmapuri Region, Bharathipuram
Dharmapuri-636 705.
- 4 The Administrator
Tamil Nadu State Transport Corporation
Employees Post Retirement Welfare Fund Scheme
Thiruvalluvar House
Pallavan Salai
Chennai - 600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to settle the petitioner's retirement benefits including Provident fund, Gratuity, Commutation, EL Surrender, ML Surrender, DA arrears, Settlement arrears, ERBS Pension and IRT amount and in other benefits etc.. with interest at the rate of not less than 18% per annum payable from the date of retirement and consequently directing the respondents to pay interest at the rate of 18% per annum for the belated settlement of retirement benefits to the petitioner payable from the date of retirement i.e. 29.02.2016 to till date of actual payment to the petitioner within the time that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.R.K.Gandhi, SC
for Transport Corporation
and Mr.K.Dhananjayan, SGP (R1)

ORDER

By consent, this writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.R.K.Gandhi, learned Standing Counsel accepts notice on behalf of the Transport Corporation.

2. The petitioner joined the services of the 2nd respondent Corporation as Conductor on 18.12.1980 and after rendering service, on attaining the age of superannuation, he was permitted to retire from service on 29.02.2016. At the time of retirement, he was working as Traffic Inspector of the 3rd respondent and was drawing a salary of Rs.45630/-. The grievance expressed by the petitioner is that though he retired from service on 29.02.2016, his terminal benefits such as Provident Fund, Gratuity, Commutation, EL surrender, ML Surrender, DA arrears, Settlement arrears, ERBS arrears and IR amount, have not been paid to him. In this regard, he has made a representation dated 11.01.2017 to the respondents. Though it was received and acknowledged, no orders have been passed. Hence, the petitioner has come forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that the matter in issue is squarely covered by the common Judgment dated 12.06.2015 made in W.A.No.(MD) Nos.383 to 457 of 2015, [K.Rajendran and others Vs. Tamil Nadu State Transport Corporation, represented by its Managing Director, Madurai-10 and three others], wherein, the Division Bench has passed orders, ordering payment of terminal benefits, in 12 equal monthly installments, carrying interest at the rate of 6% p.a. and taking into consideration the hardship and misery being suffered by him, prays for appropriate orders.

4. This Court heard the submissions of Mr.R.K.Gandhi, learned Standing Counsel for the Transport Corporation and Mr.K.Dhananjayan, learned Special Government Pleader for the 1st respondent, who would submit that in the light of the above cited Judgment, appropriate orders may be passed.

5. This Court considered the rival submissions and also perused the materials placed before it.

6. It is relevant to extract the orders passed in W.A.No.(MD) Nos.383 to 457 of 2015:

"The learned Additional Advocate General submits that he has obtained written instructions vide letter No.7945/B/2015-2 dated 11/06/2015 that the terminal benefits of the appellants would be settled through twelve equal monthly installments, carrying interest of 6% p.a.

2. The said statement is thus taken on record and the respondents will be bound by the same. We have to keep in mind the judicial pronouncement of the Honourable Supreme Court in D.D.Tewari (D) Thr. Lrs. Vs. Utta Haryana Bujli Vitran Nigam Limited & Ors [2014 (e) scale -78] wherein it is held that in case of any delay in making the payment of the installments, the interest payable would become 18% p.a., for the delayed period apart from any other remedy which may be available to the appellants for non-compliance of undertaking given to this Court.

3. The instalments to be paid from July 2015 and each instalments should be paid on or before 7th of each month.

4. The Writ Appeals are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed."

7. A similar issue came up for consideration in a batch of cases and one such case is W.P.No.42555 of 2016 and this Court, after hearing the submissions of the learned counsel appearing for the petitioner therein, as well as the submission of Mr.K.Venkataramani, learned Additional Advocate General, by following the above cited Judgment, disposed of the said writ petition on 19.01.2017, the operative portion of which is extracted below:-

"10. In the light of the above facts and circumstances, the State Transport Undertakings/Transport Corporations shall settle all the terminal benefits due and payable to the petitioner in the light of the common judgment rendered in W.A.No.(MD) Nos.383 to 457 of 2015 and the installments to be paid from 01.04.2017. The Administrative Department shall ensure that there is no default as to the compliance of the orders passed by this Court in this regard. It is also made clear that neither the Transport Corporation nor the Administrative Department shall drive the retired employees to approach this Court for similar relief and in the light of the fact that the above orders equally binds them

shall make every endeavour to pass similar orders at least on the date of retirement of the employees. It is further made clear that the non compliance of the order passed by this Court may visit the concerned respondents with grave consequences by way of contempt proceedings".

8. In the light of the above facts and circumstances and also in the light of the earlier orders passed by this Court, the terminal benefits due and payable to the petitioner shall be paid by the respondent in 12 equal monthly instalments with interest at 6% p.a. and the 1st instalment shall commence from April 2017 and to be continuously paid until settling the entire arrears. The respondent shall also pay pension periodically to the petitioner without any default. It is made clear that in case of any delay in making the payment of the instalments, the interest payable would become 18% p.a., for the delayed period apart from any other remedy which may be available to the petitioner for non-compliance of undertaking given to this Court.

The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Secretary
The Government of Tamil Nadu
Transport Department
Secretariat St. George Fort
Chennai - 600 009.
2. The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited
No.12 Ramakrishnan Road
Salem-636 007
3. The General Manager
Tamil Nadu State Transport Corporation
(Salem) Limited
Dharmapuri Region, Bharathipuram
Dharmapuri-636 705.
4. The Administrator
Tamil Nadu State Transport Corporation

Employees Post Retirement Welfare Fund Scheme
Thiruvalluvar House
Pallavan Salai, Chennai - 600 002.

+1cc to Govt. Pleader (SR. 6252)

+1cc to Mr. M. Selvam Advocate (SR.NO. 6307)

+1cc to oMr.K. Gandhi Advocate (SR. 6685)

W.P.No.2226 of 2017

MSM(CO)
VR(16/02/2017)



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