

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.2319 & 2320/2017

K.Murugesan

.. Petitioner
in W.P.No.2319/2017

M.Gunasekaran

.. Petitioner
in W.P.No.2320/2017

Vs

- 1.The Secretary,
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.

.. Respondents in both WPs

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to settle the petitioners' retirement benefits including Provident fund, Gratuity, Communication, 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 petitioners payable from the date of retirement i.e., 30.04.2015, 30.09.2016 respectively, to till date of actual payment to the petitioners within the time that may be stipulated by this Court.

For Petitioners : Mr.M.Selvam
(for both WP's)
For R1 in both
writ petitions : Mr.K.Dhananjayan, Spl.GP
For RR2&3 in both
writ petitions : Mr.R.K.Gandhi

COMMON ORDER

By consent, the writ petitions are taken up for final disposal as the issue to be adjudicated is one and the same. Mr.K.Dhananjayan, learned Special Government Pleader and Mr.R.K.Gandhi, learned Standing Counsel accept notice on behalf of the respondents.

2 The petitioner in WP.No.2319/2017 joined the services of the 2nd respondent / Corporation as a Driver on 02.02.1990 and retired from service on attaining the age of superannuation on 30.04.2015 and the time of retirement he was working as Selection Grade Senior Driver and was paid salary of Rs.34,632/- at the time of retirement. According to him, at the time of retirement, the retiral/terminal benefits such as Gratuity, Commutation, Earned Leave Surrender, Medical Leave Surrender, DA Arrears, Settlement arrears, ERBS Pension and IRT amounts, have to be settled and however, it is yet to be settled though nearly 1 ½ years had lapsed. In this regard, the petitioner had also submitted a representation dated 23.01.2017 to the 2nd respondent and since the grievance expressed by him has not been addressed, he came forward to file the present writ petition.

3 The petitioner in WP.No.2320/2017 joined the services of the 2nd respondent / Corporation as a Conductor on 27.10.1986 and retired from service on attaining the age of superannuation on 30.09.2016 and the time of retirement he was working as Selection Grade Senior Driver and was paid salary of Rs.40,000/- at the time of retirement. According to him, at the time of retirement, the retiral/terminal benefits such as Gratuity, Commutation, Earned Leave Surrender, Medical Leave Surrender, DA Arrears, Settlement arrears, ERBS Pension and IRT amounts, have to be settled and however, it is yet to be settled though nearly 1 ½ years had lapsed. In this regard, the petitioner had also submitted a representation dated 23.01.2017 to the 2nd respondent and since the grievance expressed by him

has not been addressed, he came forward to file the present writ petition.

4 The learned counsel appearing for the petitioners would submit that a similar issue arose for consideration before a Division Bench of this Court in WA[MD] No.383 to 457/2015 [K.Rajendran and others Vs. The Tamil Nadu State Transport Corporation, Madurai Limited rep. by the Managing Director, Madurai-10 and others] and the Division Bench, vide judgment dated 12.06.2015, has ordered the amounts to be paid in twelve equal monthly instalments with an interest @ 6% per annum and also with a default interest and prays for similar orders.

5 Heard Mr.K.Dhananjayan, learned Special Government Pleader and Mr.R.K.Gandhi, learned Standing Counsel appearing for the respondents.

6 This Court has taken into consideration the said judgment and also the stand of the respondents including the Administrative Department in its order dated 19.01.2017 made in WP.No.42555/2016 [A.Annamalai Vs. The Managing Director, Tamil Nadu State Transport Corporation Limited, Salem and others] and issued necessary directions and for the purpose of disposal of the cases. It is also relevant to extract the common judgment made in the above cited writ appeal :-

"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 in the light of the above facts and circumstances, the 2nd respondent is directed to settle the retiral/terminal benefits to the petitioners in twelve equal monthly installments commencing from April 2017 bearing interest at the rate of 6% per annum and in the event of default, the interest payable will become 18% per annum. The 2nd respondent, apart from paying arrears of pension, shall also continue to pay the pension amount due and payable to the petitioners without any default.

8 The writ petitions stand disposed of with the above direction. No costs.

sd/
Assistant Registrar(CS VI)

/true copy/

Sub Assistant Registrar

AP
To

1.The Secretary, 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 Mr.M.Selvam, Advocate SR.No.6308
+1cc to the Government Pleader SR.No.6308

W.P.No.2319 & 2320/2017

MSM(CO)
GN(21/02/2017)