

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 2979 of 2017

S. Mathiyazhagan

..Petitioner

Vs.

1. The State of Tamil Nadu rep. by
its Principal Secretary,
Transport Department,
Fort St. George,
Chennai - 600 009.

2. The Managing Director,
State Express Transport
Corporation (TN) Ltd.,
Chennai - 600 002.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 2nd respondent to settle all eligible retirement benefits of the petitioner as sought for in his representation dated 16.01.2017 including interest thereto on such belated payment within a time to be stipulated by this Court.

For Petitioner :: Mr.L. Chandrakumar

For Respondents :: Mr.K. Dhananjayan,
Special Govt. Pleader
for R1
Mr.P. Kannan Kumar
for R2

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. Mr.K. Dhananjayan, learned Special Government Pleader accepts notice on behalf of the 1st respondent and Mr.P. Kannan Kumar, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

3. The petitioner was appointed as Driver on 01.04.1987 with EDP No. 5177 in the services of the 2nd respondent Corporation and after putting in 28 years of service, retired on 31.08.2015 as Selection Grade Senior Driver. The grievance of the petitioner is that, on account of his retirement, though he is entitled to terminal benefits, the same have not been paid to him. In this regard, has already submitted a representation dated 16.01.2017 to the 2nd respondent. Despite receipt and acknowledgement of the said representation, no orders have been passed and therefore, came forward to file the present writ petition.

4. 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 the petitioner, prays for appropriate orders.

5. This Court heard the submissions of Mr.K. Dhananjayan, learned Special Government Pleader for the 1st respondent and Mr.P.Kannankumar, learned Standing Counsel for the 2nd respondent, who would submit that in the light of the above cited Judgment, the request made by the petitioner would be complied with.

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

7. 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."

8. 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".

9. 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 respondents in 12 equal monthly instalments with interest at 6% p.a. and the 1st instalment shall commence from May 2017 and to be continuously paid until settling the entire arrears. The respondents 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.

10. The writ petition is disposed of accordingly. No costs.

s/d-
Assistant Registrar(CO)

//True Copy//

Sub-Assistant Registrar

To

1. The State of Tamil Nadu rep. by
its Principal Secretary,
Transport Department,
Fort St. George,
Chennai - 600 009.
 2. The Managing Director,
State Express Transport
Corporation (TN) Ltd.,
Chennai - 600 002.
- +1 CC to Govt. Pleader, High Court, Madras sr 8151
+1 CC to Mr. L. Chendrakumar, Advocate sr 7660
+1 CC to Mr. P. Kannan Kumar, Advocate sr 8506

W.P. No. 2979 of 2017

PK(CO)
sp/23/2

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