

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43612 of 2016

P.Muthusamy

... Petitioner

Vs

1.Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Rep. by its Managing Director
Salamedu, Villupuram - 605 602.

2.The General Manager
Tamil Nadu State Transport Corporations
(Villupuram) Ltd.,
Villupuram Region, Villupuram

3.The Administrator
Tamil Nadu State Transport Corporations
Employees Pension Fund Trust,
Tiruvallurvar Illam, Pallavan Salai,
Chennai - 600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondents to pay the petitioner a sum of Rs.4,76,345/- towards gratuity; a sum of Rs.10,296/- towards difference in commutation to be paid; a sum of Rs.3,200/- towards arrears of salary payable as per the settlement dated 13.04.2015; a sum of Rs.5,824/- towards D.A arrears payable to him for 14 months and to pay him D.A. from November 2016 with further and corresponding increase in D.A. with arrears; a sum of Rs.38,318/- towards arrears of difference in pension for 34 months and revised pension from November 2016 based on the salary payable to the petitioner on the date of retirement as per the settlement with arrears; monthly pension payable under the Post Retirement Benefit Scheme from June 2016 with arrears together with interest at the rate of 12% per annum for the above benefit and also to pay him interest for the belated payment of service/terminal benefits including the belated payment of the commuted value of pension which were already paid to the petitioner and award costs.

For Petitioner : Mr.R.Krishnaswamy

For Respondents: Mr.K.Venkataramani
Additional Advocate General
Assisted Mr.P.Kannan Kumar

ORDER

By consent, this writ petition is taken up for final disposal. Mr.Kannan Kumar, learned Standing Counsel accepts notice on behalf of the respondents .

2. The petitioner joined the services of the respondent Transport Corporation on 01.03.1986 as a Driver and got his promotion as a Special Grade Driver and on attaining the age of superannuation, he retired from service on 31.12.2013. The grievance expressed by the petitioner is that though he has retired as early as on 31.12.2013, the terminal benefits such as Gratuity, Commutation, arrears of salary, D.A. arrears, arrears of difference in pension, monthly pension under the Post Retirement Benefit Scheme and interest for the belated payment of service/terminal benefits as per 12 (3) settlement under the Industrial Disputes Act, have not been settled. In this regard, he has submitted representations dated 22.10.2016, 28.10.2016, 31.10.2016, 07.11.2016 and 17.11.2016 to the respondents. Since the said representations have not been disposed of, the petitioner has come before this Court with 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 the petitioner, prays for appropriate orders.

4. This Court heard the submissions of Mr.K.Venkataramani, learned Additional Advocate General assisted by Mr.P.Kannankumar, learned Standing Counsel for the respondents, 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 respondents 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 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.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Salamedu, Villupuram - 605 602.

2.The General Manager
Tamil Nadu State Transport Corporations
(Villupuram) Ltd.,
Villupuram Region, Villupuram

3.The Administrator
Tamil Nadu State Transport Corporations
Employees Pension Fund Trust,
Tiruvallurvar Illam, Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.V. Ajoykhose, Advocate, S.R.No.7172

+1cc to Mr.P. Kannan Kumar, Advocate, S.R.No.8123

PK(CO)

EU 23.2.17