IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43756 of 2016

1.R.Thangavelu
2.V.Santhanam
3.K.Pannerselvam
4.J.K.Lakshmanan
5.S.Viswanathan
6.P.Sethuraj
7.A.Eswaran
8.S.Anthonisamy
9.T,Nagamanickam
10.M.Ganeshkumar
11.S.Devaraj
12.V.Sasitharan
13.S.Rangaraju
14.K.Kumaraswami
15.A.Mariakulandairajan ... Petitioners

Vs

The Managing Director
Tamil Nadu State Transport Corporation
(CBE) Ltd.
37, Mettupalayam Road
Coimbatore - 641 043. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondent herein to pay the petitioner their retirement benefits with interest to them as per their representation made to him on 13.10.2016.

For Petitioners: Mr.Balasubramanian

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

ORDER

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

2. The 1st petitioner retired from the services of the respondent Transport Corporation on 31.10.2010 as a Senior Trade Man, after completing 32 years of service on account of superannuation, the 2nd petitioner retired from the services of the respondent Transport Corporation on 31.03.2011 as a Trade Man, after completing 30 years of service on account of superannuation, the 3rd petitioner retired from the services of the respondent Transport Corporation on 31.03.2011 as a Senior Checking Inspector, after completing 34 years of service on account of superannuation, the 4th petitioner retired from the services of the respondent Transport Corporation on 31.01.2012 as a Senior Checking Inspector, after completing 38 years of service on account of superannuation, the 5th petitioner retired from the services of the respondent Transport Corporation on 31.10.2012 as a Senior Checking Inspector, after completing 37 years of service on account of superannuation, the 6th petitioner retired from the services of the respondent Transport Corporation on 31.03.2013 as a Senior Checking Inspector, after completing 38 years of service on account of superannuation, the 7th petitioner retired from the services of the respondent Transport Corporation on 30.04.2013 as a SG Driver after completing 23 years of service on account of superannuation, the 8th petitioner retired from the services of the respondent Transport Corporation on 31.07.2013 as a Senior Checking Inspector, after completing 39 years of service on account of superannuation, the 9th petitioner retired from the services of the respondent Transport Corporation on 31.10.2013 as a Foreman, after completing 41 years of service on account of superannuation, the 10th petitioner retired from the services of the respondent Transport Corporation on 31.12.2013 as a SG Driver, after completing 28 years of service on account of superannuation, the 11th petitioner retired from the services of the respondent Transport Corporation on 30.04.2014 as a Special Grade Driver, after completing 31 years of service on account of superannuation, the 12th petitioner retired from the services of the respondent Transport Corporation on 30.04.2014 as a Foreman, after completing 34 years of service on account of superannuation, the 13th petitioner retired from the services of the respondent Transport Corporation on 31.03.2015 as a Senior Trade Man, after completing 31 years of service on account of superannuation, the 14th petitioner retired from the services of the respondent Transport Corporation on

31.05.2015 as a Senior Checking Inspector, after completing 34 years of service on account of superannuation, and the 15th petitioner retired from the services of the respondent Transport Corporation on 31.12.2015 as a Senior Trade Man, after completing 33 years of service on account of superannuation. The grievance expressed by the petitioners is that though they have retired as early as on 31.10.2010, 31.03.2011 and 31.03.2011, 31.01.2012, 31.10.2012, 31.03.2013, 30.04.2013, 31.07.2013, 31.10.2013, 31.12.2013, 30.04.2014, 30.04.2014, 31.05.2015 and 31.12.2015 the terminal benefits such as Payment of Gratuity, Earned Leave Surrender Salary Including Medial Leave, Dearness Allowance arrears and Arrears of settlement difference as per 12 (3) settlement under the Industrial Disputes Act, have not been settled. In this regard, they have submitted representations dated 12.10.2016 to the respondents. Since the said representations have not been disposed of, the petitioners have come before this Court with this writ petition.

3. The learned counsel appearing for the petitioners 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.K.Venkataramani, learned Additional Advocate General assisted by Mr.P.Kannan Kumar, learned Standing Counsel for the 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 respondent 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 respondent 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 petitioners 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 petitioners 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 petitioners for non-compliance of undertaking given to this Court.

The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp

To

The Managing Director
Tamil Nadu State Transport Corporation
(CBE) Ltd.
37, Mettupalayam Road
Coimbatore - 641 043.

+15cc to Mr.Balasubramanian, Advocate, S.R.No.6704
+1cc to Mr.Kannan Kumar, Advocate, S.R.No.7373

MP(CO)
RS(22/02/2017)