

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.43786 to 43789 of 2016

W.P.No.43786 of 2016

S.Ekambaram

... 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,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishnan Road,  
Salem - 636 007.

3. The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region, Bharthipuram,  
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

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing Directing the respondents to settle the petitioners 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. 31.10.2016 to till date of actual payment to the petitioner within the time that may be stipulated by this Honourable Court.

T.Srinivasan

... 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,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishnan Road,  
Salem - 636 007.

3. The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region, Bharthipuram,  
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

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondents to settle the petitioners retirement benefits including 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. 31.7.2012 to till date of actual payment to the petitioner within the time that may be stipulated by this Honourable Court.

W.P.No.43788 of 2016

A.Selvaraju

Vs.

... Petitioner

1.The Government of Tamil Nadu,  
Rep. by the Secretary,  
Transport Department,  
Secretariat, St. George Fort, Chennai - 600 009.

2. The Managing Director,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishnan Road,  
Salem - 636 007.

3. The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region, Bharthipuram,  
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

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondents to settle the petitioners retirement benefits including 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. 30.06.2014 to till date of actual payment to the petitioner within the time that may be stipulated by this Honourable Court.

W.P.No.43789 of 2016

S.Francis

Vs.

... Petitioner

1.The Government of Tamil Nadu,  
Rep. by the Secretary,  
Transport Department,  
Secretariat, St. George Fort, Chennai - 600 009.

2. The Managing Director,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishnan Road,  
Salem - 636 007.

3. The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region, Bharthipuram,  
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

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondents to settle the petitioners 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. 28.2.2015 to till date of actual payment to the petitioner within the time that may be stipulated by this Honourable Court.

For Petitioner : Mr.R.Venkatesan  
in all W.Ps.

For Respondents : Mr.K.Venkataramani,  
in all W.Ps. Additional Advocate General  
Assisted by Mr.P.Kannankumar  
for R2 to R4 and  
Mr.K.Dhananjayan,  
Special Government Pleader for R1

#### C O M M O N O R D E R

By consent, all the writ petitions are taken up for final disposal, as the issue involved and to be adjudicated is one and the same.

2. The respective learned counsel appearing for the parties would submit that it is not at all in dispute that they were retired employees of various Transport Corporations, which comes under the administrative control of the Administrative Department viz., Transport Department, Secretariat, Chennai-9 and despite the fact that they have retired from service long back, terminal benefits due and payable to them, have not been settled for years together and in some cases, though pension amount has been granted, all of a sudden it has been stopped citing reason for lack of funds.

3. The attention of this Court has also been invited to the 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 them, appropriate orders may be passed.

4. Per contra, Mr.K.Venkataramani, learned Additional Advocate General assisted by Mr.K.Dhananjayan, learned Special Government Pleader appearing for 1st respondent and Mr.P.Kannankumar, learned Standing Counsel appearing for Transport Corporation had invited the attention of this Court



to letter No.20482/C1/2016-1, dated 12.01.2017 sent by Mr.V.Mohanraj, I.A.S., Transport (C1) Department, Secretariat, Chennai- 600 009, addressed to him and would submit that the State Transport Corporation are finding it extremely difficult to run the buses on account of the fact that it is carrying out social objectives and it is not any deliberate act on the part of the Transport Corporation to settle the terminal benefits on time and only on account of the financial crises, they are unable to settle the terminal benefits on time and they will scrupulously comply the above cited judgment passed in W.A.No. (MD)Nos.383 to 457 of 2015 (cited supra).

5. This Court has also put a question to the learned Additional Advocate General, since free bus passes and other benefits have been conferred, whether the subsidy due and payable by the Government have been paid and the learned Additional Advocate General, on instructions has produced the statement showing the subsidy given to the State Transport Undertakings by the Government and the amount diverted for the pension as well as the statement showing the details of the amount sanctioned in HSD and Student Concession subsidy 2016-17 and would submit that as on today, the amounts due and payable by the Government have been paid to the State Transport Undertakings and prays for appropriate orders.

6. This Court bestowed it's best attention to the rival submissions and also perused the materials placed before it.

7. The underlying object to form a Government company is to infuse efficiency and better administration and in the case on hand, it appears that the said object has not been set at naught for various reasons. But according to the learned Additional Advocate General difficulty is on account of the various welfare measures initiated and provided to the concerned section of society by the Transport Corporations for the purpose of attainment of providing relief to the travelling public. Be that as it may, the petitioners are the retired employees, who had put in hard and sincere service and therefore, normally they would expect the settlement of terminal benefits either on their date of retirement or at least some time in future and they cannot wait indefinitely for getting terminal benefits and such a kind of act for belated payment of pension/non settlement of terminal benefits, reflects the efficiency of Transport Corporations/ Transport Undertakings and this Court is optimistic that the Administrative Department shall take care of the same and provide solution to the everlasting problem.

8. 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. Uta 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 7<sup>th</sup> of each month.

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

9. It is also relevant to extract the letter of the Deputy Secretary to Government as well as the statement showing the subsidy given to the State Transport Undertakings by the Government and the amount diverted for the pension and the statement showing the details of the amount sanctioned in HSD and Student Concession subsidy 2016-17:

"Transport (C1) Department,  
Secretariat,  
Chennai - 600 009.

From

Thiru V.Mohanraj, I.A.S.,  
Deputy Secretary to Government.

To

The Additional Advocate General VII,  
High Court of Madras,  
Chennai - 104.

Sir,

Sub: W.P.No.42555 of 2016 - On the filing of  
High Court of Madras- Filed by Thiru  
A.Annamalai, Selection Grade Senior Driver for  
sanctioning of Retirement Benefits - Details of  
settlement of Pensionary benefits and Financial  
position - Furnished - Regarding.

Ref: Your letter dated 20.12.2016.

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I am to invite your kind attention to the reference cited and to state that in W.A.No.383 to 457/2015 appeal filed by management to settle the terminal benefits order dated 12.06.2015, the Hon'ble High Court of Madras & Madurai bench passed directions to state Transport undertaking to pay 12 equal monthly installments with the interest @ 6% p.a. As per Hon'ble High Court directions, the State Transport Undertakings have paid so far the retirement benefit dues to the employees for those who have filed writ petitions (Details are given below)

| STU  | Terminal Benefit due for Retired employees as on date 15/12/2016 |                    |                        | Other than Commutation (PF, Gratuity, Leave Salary & etc.,) |                                                     |                                                 | Commutation alone |                      | Total (6+7+9) |
|------|------------------------------------------------------------------|--------------------|------------------------|-------------------------------------------------------------|-----------------------------------------------------|-------------------------------------------------|-------------------|----------------------|---------------|
|      | Total No. of employees                                           | WP filed employees | WP not filed employees | Amount Settled so far in WP filed employees                 | Balance to be settled so far for WP filed employees | Amount to be settled for WP not filed employees | No. of persons    | Amount to be settled |               |
| 1    | 2                                                                | 3                  | 4                      | 5                                                           | 6                                                   | 7                                               | 8                 | 9                    | 10            |
| MTC  | 2364                                                             | 48                 | 2316                   | 0.27                                                        | 1.69                                                | 32.55                                           | 1597              | 18.92                | 53.16         |
| SETC | 5789                                                             | 598                | 5191                   | 23.34                                                       | 4.08                                                | 80.35                                           | 1005              | 12.60                | 97.03         |
| VPM  | 3390                                                             | 707                | 2683                   | 21.08                                                       | 63.49                                               | 124.14                                          | 2102              | 31.38                | 219.01        |
| SLM  | 2584                                                             | 832                | 1752                   | 12.70                                                       | 64.90                                               | 180.98                                          | 1340              | 17.63                | 263.51        |
| CBE  | 4869                                                             | 793                | 4076                   | 15.71                                                       | 46.62                                               | 285.92                                          | 1419              | 14.05                | 346.59        |
| KUM  | 3140                                                             | 1827               | 1313                   | 61.63                                                       | 63.02                                               | 84.18                                           | 1990              | 31.88                | 179.08        |
| MDU  | 2888                                                             | 1816               | 1072                   | 39.47                                                       | 83.40                                               | 103.06                                          | 1327              | 20.75                | 207.21        |
| TNV  | 5253                                                             | 393                | 4860                   | 3.97                                                        | 39.44                                               | 164.81                                          | 679               | 7.27                 | 211.52        |

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| STU   | Terminal Benefit due for Retired employees as on date 15/12/2016 |      |       | Other than Commutation (PF, Gratuity, Leave Salary & etc.,) |        |         | Commutation alone |        | Total (6+7+9) |
|-------|------------------------------------------------------------------|------|-------|-------------------------------------------------------------|--------|---------|-------------------|--------|---------------|
| Total | 2791                                                             | 6966 | 20947 | 178.17                                                      | 366.63 | 1055.99 | 11467             | 154.48 | 1577.11       |

It is also informed that the State Transport Undertakings are not able to run the buses due to facing heavy financial crisis in day to day operations in diesel price hike cost escalation of materials, wage settlement of employees in revision of pay etc. However, the State Transport Undertakings are settling the terminal benefits in 12 equal installments with 6% interest for those who have obtained Court directions. It is also informed that the State Transport Undertakings will settle terminal benefits to some extent on seniority basis for those who have not approached the Court based on financial position of State Transport Undertakings. In spite of the number of retired employees who are approaching the Court increase day by day and State Transport undertakings will not be in a position to settle terminal benefits as State Transport Undertakings faces heavy financial crisis. However State Transport Undertakings will take steps to settle retirement benefits as and when financial position improves.

Statement showing subsidies given to the State Transport Undertakings by the Government and amount diverted for pension.

| Sl. No | G.O. In which amount sanctioned                                      | Total amount sanctioned | Amount diverted to the pension Trust for Pension |
|--------|----------------------------------------------------------------------|-------------------------|--------------------------------------------------|
| 1      | G.O. (Ms) NO.46 and 47, Transport (T1) Department, dated 26.04.2016. | 86.54                   | 71.15                                            |
| 2      | G.O. (Ms) NO.51 and 52, Transport (T1) Department, dated 10.05.2016. | 93.7                    | 76.25                                            |
| 3      | G.O. (Ms) No.63 and 64, Transport (T1) Department, dated 26.04.2016. | 111.01                  | 80.37                                            |



| Sl. No | G.O. In which amount sanctioned                                       | Total amount sanctioned | Amount diverted to the pension Trust for Pension |
|--------|-----------------------------------------------------------------------|-------------------------|--------------------------------------------------|
| 4      | G.O. (Ms) No. 72 and 73 Transport (T1) Department, dated 25.07.2016.  | 133.25                  | 82.10                                            |
| 5      | G.O. (Ms) No. 74 and 75, Transport (T1) Department, dated 23.08.2016. | 134.37                  | 86.25                                            |

Statement showing the details of amount sanctioned in HSD and Student Concession Subsidy 2016-17  
Amount provided in RBE

Student Concession Subsidy : Rs. 505.3516 crore  
HSD : Rs. 200 crore

| Sl. No. | G.O. Nos. and date                                                                      |                                                                                            | Amount (Rs. In crore) |         |
|---------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|-----------------------|---------|
|         | HSD                                                                                     | SC                                                                                         | HSD                   | SCS     |
| 1       | G.O. (4D) No. 2, Transport (T1) Department, dated 04.03.2016. (Engineering Councelling) |                                                                                            |                       | 1.3516  |
| 2       | G.O. (Ms) No. 46, Transport (T1) Department, dated 26.04.2016                           | G.O. (Ms) No. 47, Transport (T1) Department, dated 26.04.2016                              | 14.54                 | 72.0000 |
| 3       | G.O. (Ms) No. 50, Transport (T1) Department, dated 10.05.2016                           | G.O. (Ms) No. 51, Transport (T1) Department, dated 10.05.2016                              | 21.74                 | 72.0000 |
| 4       |                                                                                         | G.O. (Ms) No. 58, Transport (T1) Department, dated 26.05.2016. (ITI arrear from 2012-2015) |                       | 18.4474 |

| Sl. No. | G.O.Nos. and date                                              |                                                                                         | Amount<br>(Rs. In crore) |         |
|---------|----------------------------------------------------------------|-----------------------------------------------------------------------------------------|--------------------------|---------|
| 5       | G.O. (Ms) No. 63, Transport (T1) Department, dated 23.06.2016. | G.O. (Ms) No. 64, Transport (T1) Department, dated 23.06.2016.                          | 39.01                    | 72.0000 |
| 6       | G.O. (Ms) No. 72, Transport (T1) Department, dated 20.07.2016. | G.O. (Ms) No. 73, Transport (T1) Department, dated 25.07.2016.                          | 58.25                    | 75.0000 |
| 7       | G.O. (Ms) No. 74, Transport (T1) Department, dated 23.08.2016. | G.O. (Ms) No. 75, Transport (T1) Department, dated 23.08.2016.                          | 59.37                    | 75.0000 |
| 8       |                                                                | G.O. (Ms) No. 76, Transport (T1) Department, dated 26.08.2016. (Wage settlement arrear) |                          | 61.9100 |
| 9       | G.O. (Ms) No. 91, Transport (T1) Department, dated 14.10.2016. | G.O. (Ms) No. 92, Transport (T1) Department, dated 14.10.2016.                          | 7.09                     | 57.6426 |
| 10      | G.O. (Ms) No. 97, Transport (T1) Department, dated 17.11.2016. |                                                                                         | 81.86<br>(ASL)           |         |
| 11      | G.O. (Ms) No. 104, Transport (T1) Department, dated 01.12.2016 |                                                                                         | 56.09<br>(ASL)           |         |
| 12      | G.O. (Ms) No. 106, Transport (T1) Department, dated 30.12.2016 |                                                                                         | 62.06<br>(ASL)           |         |

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 petitioners/legal representatives of the deceased employees 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.

11. The writ petitions are disposed of accordingly. No costs.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsm

To

- 1.The Secretary,  
Government of Tamil Nadu,  
Transport Department,  
Secretariat, St. George Fort, Chennai - 600 009.
  - 2.The Managing Director,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishnan Road,  
Salem - 636 007.
  - 3.The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region, Bharthipuram,  
Dharmapuri - 636 705.
  - 4.The Administrator,  
Tamil Nadu State Transport Corporation,  
Employees Post Retirement Welfare Fund Scheme,  
Thiruvalluvar House, Pallavan Salai,  
Chennai - 600 002.
- +4cc to Mr. R. Venkatesan, Advocate, SR.3934/2017

W.P.Nos.43786 to 43789 of 2016

SV(CO)  
VR(15/02/2017)