

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.44211 of 2016

R.Baskaran

... Petitioner

Vs.

1.The Secretary to the Government,
Tamil Nadu Transport Department,
St.George Fort, Chennai.

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Vazhuthareddu, Villupuram - 605 602.

3.The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Vellore Region, Vellore - 632 009.

4.The Administrator,
Tamil Nadu State Transport Corporation,
Employee 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 disburse the payments relating to Gratuity, commutation and leave encashment, by calculating DA eligible as per newly implemented with interest at 12% per annum with effect from 01.06.2016 within time fixed by this Court.

For Petitioner : Mr.I.Abraham

For Respondents: Mr.K.Venkataramani,
Additional Advocate General
Assisted by
Mr.K.Dhananjayan,
Special Government Pleader for R1

Mr.P.Kannankumar
for R2 to R4

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The learned counsel appearing for the parties would submit that it is not at all in dispute that he is a retired employee of Transport Corporation, which comes under the administrative control of the Administrative Department viz., Transport Department, Secretariat, Chennai-9 and despite the fact that he has retired from service long back, terminal benefits due and payable to him, has not been settled for years together.

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 the first 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 petitioner is a retired employee, who had put in hard and sincere service and therefore, normally he would expect the settlement of terminal benefits either on the date of retirement or at least some time in future and he 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 7th 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.44211 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.

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 Amount 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
Total	27913	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 23.06.2016.	111.01	80.37
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 S	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
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

Sl. No.	G.O.Nos. and date		Amount (Rs. In crore)	
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 (ASL)	
11	G.O. (Ms) No.104, Transport (T1) Department, dated 01.12.2016		56.09 (ASL)	
12	G.O. (Ms) No.106, Transport (T1) Department, dated 30.12.2016		62.06 (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 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.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to the Government,
Tamil Nadu Transport Department,
St.George Fort, Chennai.

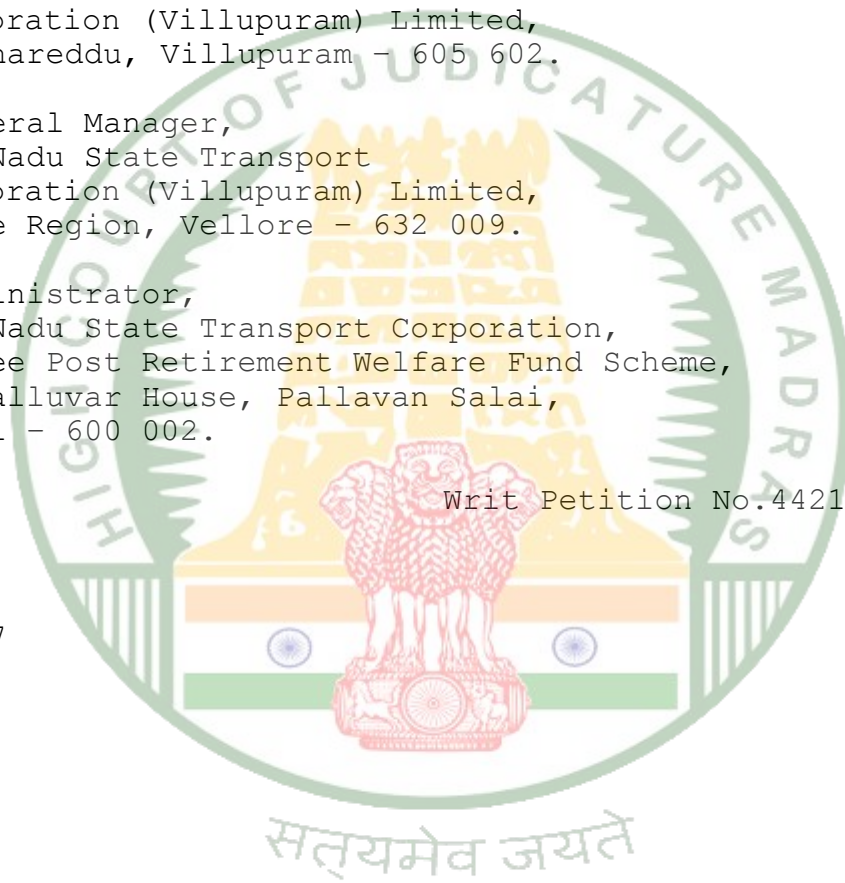
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MP (CO)
EU 23.2.17



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