



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. [MD].No.165 of 2015

WEB COPY

1.T.Nagaru Pillai
2.M.Devadhas
3.S.Murugan
4.M.Rajaram
5.A.Dharmalinga Swamy
6.R.Velappan Asari

: Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Vannarapettai-Tirunelveli.

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order of a learned Single Judge of this Court dated 03.11.2014, made in W.P. (MD).No.17681 of 2014.

Prayer in WP(MD).17681/2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent to pay the difference amount of encashment of earned leave consequent on the revised scale to pay implemented to the petitioner as per the 6th pay commission report along with 18% interest and to pass such other or further orders.

For Appellants : Mr.S.Veeranasamy

For Respondent : Mr.K.Sathiyasingh

JUDGMENT

[Judgment of the Court was delivered by **R.SUBBIAH, J.**]

This Writ Appeal is directed against the order of a learned Single Judge of this Court dated 03.11.2014, made in W.P. (MD). No.17681 of 2014.

2. The appellants herein have filed the Writ Petition jointly claiming a common prayer for issuance of a Writ of Mandamus, directing the respondent to pay the difference amount of encashment of earned leave consequent on the revised scale of pay implemented to the appellants as per the 6th pay commission report along with 18% interest.

3. However, the said Writ Petition was dismissed on the ground that the appellants have approached the respondent by making a representation on 22.03.2013 and, thereafter, approached this Court by way of Writ Petition in the year 2014, that too, with huge delay. Finding that no explanation was given for the inordinate delay in claiming such benefit, Writ Court dismissed the Writ Petition. Aggrieved over the same, the appellants are

before this Court with the present Writ Appeal.

4. Today, when the appeal was taken up for consideration, the learned counsel for the appellants, by placing reliance upon a judgment of a Division Bench of this Court in W.A.(MD)Nos.802 to 809 of 2011, submits that in the said case also, the appellants therein approached the Court belatedly and thus, the Writ Petitions were dismissed by the learned Single Judge. However, on appeal, the Division Bench has allowed the Writ Appeals, by placing reliance on the judgment passed by a Division Bench of this Court in a batch of Writ Appeals in W.A.Nos.815 of 2010, etc., batch. The learned counsel has also placed the said judgment for perusal of this Court. The relevant portion from the said judgment reads thus:

"4. A similar issue came to be decided by a Division Bench of this Court in a batch of Writ Appeals in W.A.No.815 of 2010 etc., batch, wherein, by judgment dated 07.07.2011, the Division Bench has taken up the issue for consideration, and ultimately, held that the appellants therein have made out a case for extending the benefits given to a set of employees notwithstanding the delay in making a claim. In answering the said question, the Division Bench has concluded as follows:

"21. It is also a matter of record that the Government have considered the claim made by 65 of the retired employees and the benefits of the earlier Government Orders were extended to them. The Government Order in G.O.Ms.No.210, School Education (G1) dated 14.08.2009 clearly supports the case of the appellants. When it is made out that the Government have considered the demand of a section of erstwhile Headmasters of Elementary Schools and awarded them selection grade pursuant to the order passed by the employees, who have approached the Court at a belated point of time. The appellants are aged persons and ultimately, they would be given only the benefit of re-fixing their pension. The appellants have served the Education Department for a long time and at this point of time, they wanted only a similar treatment. The Government having issued orders conferring benefits to the similarly situated employees cannot be heard to say that such benefits would not be given to those who have not approached the Court within a reasonable time."

Thus, the Division Bench has held that having found that there was a delay, the same cannot be viewed against the legitimate right of the Writ Petitioners/Appellants."

<https://hcservices.sirgundhcservices.org>

The said judgment is squarely applicable to the facts of the present case.



5. At this juncture, the learned counsel for the respondent submits that a direction may be issued to the respondent to consider the representation made by the appellants on 22.03.2013, since the same is pending.

6. In view of the law laid down in the judgment cited *supra* as well as the submission made by the learned counsel for the respondent, this Court directs the respondent to consider the representation of the appellants dated 22.03.2013 and pass appropriate orders on merits and in accordance with law, with regard to payment of the difference amount of encashment of earned leave consequent on the revised scale of pay implemented to the appellants as per the 6th pay commission report with appropriate interest, within a period of eight weeks from the date of receipt of a copy of this judgment.

7. The Writ Appeal is disposed of in the above terms. No costs

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

+1cc to Mr.K.Sathiyasingh, Advocate SR.284
+1cc to Mr.S.Veerasingh, Advocate, SR.No.726
SML
KK/GSV/SV/19.01.17/3P/3C

W.A. (MD) No.165 of 2015
03.01.2017