



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.[MD].Nos.242 to 246 of 2017

and

C.M.P.(MD).Nos.2477, 2478, 2479, 2480, 2481 and 2482 of 2017

The Managing Director,

Tamil Nadu State Transport Corporation

Kumbakonam) Limited,

New Railway Feeder Road, Kumbakonam.

..1st Appellant in all the Writ Appeals

The General Manager,

Tamil Nadu State Transport Corporation

(Kumbakonam) Limited,

Karaikudi Region, Maruthupathi,

Karaikudi.

..2nd Appellant in WA.No.242, 243, 245, 246 OF 2017

The Administrator,

Tamil Nadu State Transport Corporation

Pension Fund Trust, Office of the SETC,

Pallavan Salai, Chennai-600 002.

..3RD Appellant in Writ Appeals 242 TO 245/2017

The General Manager,

Tamil Nadu State Transport Corporation

(Kumbakonam) Limited,

Thirumayam Road, Pudukkottai.

.. 2nd Appellant in WA.No.244 OF 2017

Vs.

K. Pachamuthu : Respondent in W.A.(MD).No.242 of 2017

A.Xavier : Respondent in W.A.(MD).No.243 of 2017

S.Sundararaju : Respondent in W.A.(MD).No.244 of 2017

I.Maruthupandian : Respondent in W.A.(MD).No.245 of 2017

S.Yayathi : Respondent in W.A.(MD).No.246 of 2017

PAYER: Writ Appeals are filed under Clause 15 of the Letters Patent against the orders dated 05.11.2013, WA(MD)Nos.242 and 243 of 2017, 13.11.2013 (WA.No.244 to 246 of 2017) made in W.P.(MD). Nos.17939, 17940, 18304, 18305 and 18306 of 2013, on the file of



this Court.

Prayer in WP(MD). 17939/ 2013 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to settle the entire terminal benefits of Gratuity, Surrender of Earned Leave and encashment, the arrears of Dearness Allowance and the Commutation of Pension immediately with interest at the rate of 12% from the date of petitioner s retirement on 31.05.2012.

Prayer in WP(MD). 17940/ 2013 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to settle the entire terminal benefits of Gratuity, Surrender of Earned Leave and encashment, the arrears of Dearness Allowance and the Commutation of Pension immediately with interest at the rate of 12% from the date of petitioner s retirement on 30.06.2012.

Prayer in WP(MD). 18304/ 2013 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st respondents to settle the entire terminal benefits of Gratuity, Surrender of Earned Leave and Encashment immediately with interest att the rate of 12% from the date of the petitioner s retirement on 31.01.2012.

Prayer in WP(MD). 18305/ 2013 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 2nd respondent to settle Gratuity, Surrender of Earned Leave and Encashment immediately with interest att the rate of 12% from the date of the petitioner s retirement on 31.03.2012.

Prayer in WP(MD). 18306/ 2013 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 2nd respondent to settle the entire terminal benefits of Gratuity, Provident Fund, leave Encashment Salary, Social security Scheme and commutation of Pension immediately with interest at the rate of 12% from the date of the petitioners retirement on 31.6.2013.



For Appellants : Mr.D.Sivaraman

For Respondents : Mr.K.S.Muthu

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COMMON JUDGMENT

[Judgment of the Court was made T.S.SIVAGNANAM, J.]

Since the issue involved in all these Writ Appeals is one and the same, the Writ Appeals were heard together and they are disposed of by means of this Common Judgment.

2. Heard Mr.D.Sivaraman, learned Standing Counsel for the appellants and Mr.K.Muthu, learned counsel, who accepts notice for the respondents.

3. By consent, the Writ Appeals are taken up for final disposal at the stage of admission itself.

4. These Writ Appeals are directed as against the orders dated 05.11.2013, 13.11.2013 made in W.P.(MD).Nos.17939, 17940, 18304, 18305 and 18306 of 2013.

5. The said Writ Petitions were filed by the appellants herein seeking a Writ of Mandamus directing the appellants to settle the entire terminal benefits of gratuity, surrender of earned leave and encashment, the arrears of dearness allowance and commutation of pension immediately with interest at the rate of 12% interest from the date of retirement of the respondents herein.

6. Though the said Writ Petitions were allowed, on 05.11.2013 and 13.11.2013, the appellants Corporation had failed to comply with the said orders on the ground that the appellants Corporation are facing financial constraints. The appellants Corporation being the State Owned Corporation, should be prompt in settling the retirement benefits to the employees, which is not a bounty, but a benefit earned by the employees on account of their past service.

7. The learned counsel for the appellants Corporation fairly submits that an identical issue was considered by the Hon'ble First Bench of this Court in W.A.(MD).Nos.383 to 457 of 2015, dated 12.06.2015, [K.Rajendran Vs. Tamil Nadu State Transport Corporation [Madurai] Ltd., and a Common Judgment was passed as follows:-

"The learned Additional Advocate General submits that he has obtained written instructions vide letter No.7945/E/2015-2, dated 11/6/2015 that the terminal benefits of the appellants would be settled through twelve equal monthly installments, carrying interest of 6% p.a.

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. UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS [2014 (9) SCALE - 78], wherein it is held 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 appellants for non-compliance of undertaking given to this Court.

The installments to be paid from July 2015 and each installments should be paid on or before 7th of each month".

8. Following the decision, referred to above, the present Writ Appeals are disposed of, directing the appellants Corporation to settle the terminal benefits to the respondents herein in twelve equal monthly installments carrying interest at the rate of 6% per annum and the first installment shall commence from Fifth April 2017. Further more, as observed by the Hon'ble First Bench, in case of any delay in making the payment of installments, the interest payable would become 18% per annum, for the delayed period, apart from any other remedy, which may be available to the respondents for non-compliance of undertaking given to the Court. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd

ASST REGISTRAR (P AND A)

TRUE COPY

SUB ASST REGISTRAR

NB

To

- 1) The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam) Limited, New Railway Feeder Road, Kumbakonam.
- 2) .The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Karaikudi Region, Maruthupathi,
Karaikudi.
- 3) . The Administrator, Tamil Nadu State Transport Corporation
Pension Fund Trust, Office of the SETC,
Pallavan Salai, Chennai-600 002.
4. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Thirumayam Road, Pudukkottai.

2CC'S TO M/S. D. SIVASRAMAN, ADVOCATE SR: 15156

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COMMON JUDGMENT MADE IN

W.A.[MD].Nos.242 to 246 of 2017
16.03.2017