



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2014

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CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU

Writ Petition (MD) Nos.971, 972, 1127, 1137, 1145 and
2716 of 2013, 14991 and 15353 of 2012

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M.P.(MD) No.1, 1, 1, 1, 1, 1 of 2013,
1 and 1 of 2012

S.KINGSTON KANAGARAJ	...	Petitioner in WP(MD). 971/ 2013
C.MATHIVANAN	...	Petitioner in WP(MD). 972/ 2013
D.KULANDAIVELU	...	Petitioner in WP(MD). 1127/ 2013
V.JEYABALAN	...	Petitioner in WP(MD). 1137/ 2013
K.R.CHANDRASEKARAN	...	Petitioner in WP(MD). 1145/ 2013
S.SHEIK SARDAR	...	Petitioner in WP(MD). 2716/ 2013
C.THANGAMANI	...	Petitioner in WP(MD). 14991/ 2012
A. THIRUGNANAM	...	Petitioner in WP(MD). 15353/ 2012

Vs.

The Managing Director,
M/s.Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Bye Pass Road, Madurai - 625 016.

... Respondent in all WPs

Prayer in WP(MD). 971/ 2013

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 a sum of Rs.84,904/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the pre-revised scale and the encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner.

Prayer in WP(MD). 972/ 2013

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 a sum of Rs. 1,42,680/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the pre revised scale and the encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner and to pass such other or further orders.

Prayer in WP(MD). 1127/ 2013

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 a sum of Rs. 57,473/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the pre revised scale and encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner and to pass such further or other orders.



Prayer in WP(MD). 1137/ 2013

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, in the nature of writ, directing the respondent to pay a sum of Rs. 59,888/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the prerevised scale and encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner and to pass such other or further orders.

Prayer in WP(MD). 1145/ 2013

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus or any other appropriate writ or orders or direction in nature of writ directing the respondent to pay a sum of Rs.89,449/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the prerevised scale and the encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner.

Prayer in WP(MD). 2716/ 2013

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 between the encashment of earned leave paid based on the pre-revised scale and the encashment of earned leave payable based on the revised scale along with 18% interest to the petitioner.

Prayer in WP(MD). 14991/ 2012

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 a sum of Rs. 33,086/- being the difference amount of unavailed earned leave salary between the unavailed earned leave salary paid based on the pre revised scale and the unavailed earned leave salary payable based on the revised scale along with 18% interest to the petitioner and to pass such further or other orders.

Prayer in WP(MD). 15353/ 2012

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 a sum of Rs.70,364/- being the difference amount of encashment of earned leave between the encashment of earned leave paid based on the pre-revised scale and the encashment of earned leave payable based on the revised scale along with 18% interest to the Petitioner.

For Petitioner : Mr.C.Thangamani in all WPs
except WP(MD) No.14991 of 2012

For Petitioner : Mr.S.Govindan, Advocate for
WP(MD) No.14991 of 2012

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent : Mr.A.P.Muthupandian in all WPs

COMMON ORDER

In all these writ petitions the respective petitioners are aggrieved against the non-payment of differential amount of encashment of earned leave payable to the petitioners pursuant to the revision of pay scale given to them. As the facts are similar in all these writ petitions, they are dealt with in common.

2. The case of the petitioners are as follows:-

They were all working in the respondent Transport Corporation and got retired from service on superannuation on different dates. The Government of Tamil Nadu revised the scale of pay and allowances to the State Government employees with effect from 01.01.2006 by way of G.O.Ms.Nos.234 and 236, Finance (PC) Department, dated 01.06.2009 consequent upon VI Pay Commission Report. Pursuant to this Government Order, the same benefit was extended to the Managerial Cadre Officers of the respondent Corporation also by way of G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010. Accordingly, the pay and allowances were revised with effect from 01.01.2006 retrospectively. At the time of retirement, the petitioners were paid the encashment of earned leave based on the pre-revised scale of pay only. On the other hand, the petitioners are entitled to receive the enhanced earned leave encashment based on the revised scale of pay. Therefore, the difference amount between the original payment of encashment of earned leave as per the pre-revised scale and as per the revised scale of pay, has to be paid by the respondents. As the request for payment of such differential amount was not considered, the present writ petitions are filed before this Court.

3. Separate counter affidavits are filed in these matters, wherein the main objection raised is that as per G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009, the applicability of the Sixth Central Pay Commission recommendations to the employees of the respondent Corporation depends upon the financial position of the Corporation and therefore, the petitioners cannot say that they should be given differential amount of earned leave encashment.

4. The learned counsel appearing for the petitioner invited my attention to the letter, dated 26.06.2009, issued by the Principal Secretary to Government, Finance Department of Government of Tamil Nadu, wherein in serial No.8, it is stated that earned leave or unearned leave on private affairs or DCRG due to revision of scales of pay in respect of the retirees from 01.01.2006 to 31.05.2009 shall be disbursed in three equal annual installments, as specified in the Government Orders cited in the said letter. Thus, the learned counsel stated that the Government has already directed the payment of differential amount of encashment of earned leave and therefore, there cannot be any impediment for the respondents to disburse the same. He further invited my attention to serial No.16 of the very same letter, wherein it is stated that the revised pension shall be calculated with reference to the revised table and the commutation amount drawn with reference to old rate shall be adjusted and the difference amount shall be paid in three installments. The learned counsel appearing for the petitioners submitted that insofar as this payment is concerned, the respondents have fully complied with



the same and only in respect of payment of difference amount of encashment of earned leave, they are not disbursing the same.

5. Per contra, the learned Standing Counsel for the Transport Corporation relied on G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009 and submitted that the petitioners cannot seek as a matter of right.

6. Heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondent and perused the records available on record.

7. It is not in dispute that pursuant to the pay revision as per G.O.Ms.Nos.234 and 236, Finance (PC) Department, dated 01.06.2009, the present petitioners were also given such benefit of pay revision by passing G.O.(Ms)No.63, Transport (D) Department, dated 05.02.2010, with retrospective effect. Once such pay revision is extended to the petitioners also, all the benefits accrued consequent upon such pay revision also should be extended to them without any restriction, in respect of encashment of earned leave.

8. A clarification was issued by the Principal Secretary to Finance Department, on 26.06.2009, reads as under:-

"As the employees retired between 1.1.2006 and 31.12.2006 are entitled for notional pay fixation in the revised scales of pay, the undrawn pay shall be reckoned for sanctioning pensionary benefits consequent on the implementation of the Revised Scales of Pay. Therefore, the difference amount of encashment of Earned Leave/Unearned Leave on Private Affairs/DCRG due to revision of scales of pay in respect of the retirees from 1.1.2006 to 31.05.2009 shall be disbursed in three equal annual installments as specified in the Government Orders cited."

Thus, the Government is very clear as to what has to be done in the case of earned leave.

9. A perusal of the above said clarification would show that the petitioners are entitled to receive the difference amount of encashment of earned leave pursuant to the revision of scale of pay. No doubt, the Government has passed G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009, wherein it is stated that the applicability of the revision of scale of pay depends upon the financial position of the Corporation. But, in these cases, it is not in dispute that such pay revision has already been applied to the respondent Corporation by passing G.O.(Ms) No.63, Transport (D) Department, dated 05.02.2010. Having passed such Government Order and applied pay revision to these petitioners also, now, the respondents cannot rely on G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009. Thus, I am of the firm view that all these petitioners are entitled to succeed in these writ petitions. Accordingly, the writ petitions are allowed and the respondents are directed to pay the difference amount of encashment of earned leave to the petitioners in each of these writ petitions in respect of the amount as sought for



therein, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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/True Copy/

Sd/-
Assistant Registrar

Sub-Assistant Registrar

To:

The Managing Director,
M/s.Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai - 625 016.

+ 8 Ccs to Mr.C.Thangamani, Advocate in SR.No.19061

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Common Order made in
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2716 of 2013, 14991 and 15353 of 2012
&
M.P.(MD) No.1, 1, 1, 1, 1, 1 of 2013, 1
and 1 of 2012
27.03.2014

gdr 22.04.2014 5p/10C