

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15309 to 15313 of 2016

W.P.No.15309 of 2016

N.Pankajam

..Petitioner

vs

1.The Government of Tamilnadu,
Represented by the Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

2.The Tamil Nadu State Transport Corporation,
(Salem) Limited,
Represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.2,78, 124/- towards difference in Gratuity amount as per G.O.Ms. NO. 235 Finance (Pay Cell) dated 01.06.2009 and Rs.1,06,146/- towards Encashment of Unearned Leave on Private affairs as per Government Finance (BPE) Department Letter No.37568/ BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e. 31.03.2010 to till date of payment and interest on delayed payment of gratuity of Rs.3,50,000/- from 31.10.2010 to 23.04.2011 which works out to 67,025/- and award exemplary costs.

(Prayer amended as per order dt.16.11.2017 IN WMP.25570/17 IN WP.15309/16)

W.P.No.15310 of 2016

1.K.Rajagopal (Deceased)

2.Tmt.R.Vijaya

3.R.Vanchinathan

4.R.Tharani

5.Muthammal

..Petitioners

(P2 to P5 are substituted as per order dated
16.11.2017 in W.M.P.No.28787/2017
in W.P.No.15310/2016)

vs

1.The Government of Tamilnadu,
Represented by the Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

2.The Tamil Nadu State Transport Corporation,
(Salem) Limited,
Represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
Directing the respondents to pay a sum of Rs.6,45,148/- towards
difference in gratuity amount as per G.O.Ms. No.235 Finance
(Pay Cell) dated 01.06.2009 and Rs.1,80,936/- towards Encashment
of Unearned Leave on Private affairs as per Government Finance
(BPE) Department Letter No. 37568/BPE/ 2006 dated 28.01.2008
with interest at 18% from the date of retirement i.e.
28.02.2010 to till date of payment and award exemplary costs.

W.P.No.15311 of 2016

R.Dhandayutham

..Petitioner

vs

1.The Government of Tamilnadu,
Represented by the Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

2.The Tamil Nadu State Transport Corporation,
(Salem) Limited,
Represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, Directing the respondents to pay a sum of Rs.4,54, 976/- towards difference in gratuity amount as per G.O.Ms. NO. 235 Finance(Pay Cell) dated 01.06.2009 and Rs.1, 29, 677/- towards Encashment of Unearned Leave on Private affairs as per Government Finance (BPE) Department Letter No. 37568/BPE/ 2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e. 28.02.2010 to till date of payment and interest on delayed payment of gratuity of Rs.3, 50, 000/- from 01.03.2010 to 17.04.2010 which works out to 71, 225/- and award exemplary costs(Prayer amended as per order dated 16.11.2017 in W.M.P.No.25571/2017 in W.P.No.15311/2016)

W.P.No.15312 of 2016

R.Dharma Raju

..Petitioner

vs

- 1.The Government of Tamilnadu,
Represented by the Chairman &
Secretary to Government,
Transport Department,
St.Fort George, Chennai - 600 009.
- 2.The Tamil Nadu State Transport Corporation,
Rep.by its Managing Director,
(Villupuram) Limited,
Villupuram - 605 401.
- 3.The Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Rep.by its Administrator,
State Transport Corp. Office,
Pallavan Salai,
Chennai - 600 002.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, Directing the respondents to pay the difference in Gratuity on the basis of G.O.Ms. NO. 235 Finance (Pay Cell) Department dated 01.06.2009 read with G.O.Ms. No. 206 dated 25.08.2010 with penal interest and interest on the delayed payment of Commutation of Pension unpaid leave salary and award exemplary costs.

W.P.No.15313 of 2016

R.Shanmugusundaram

..Petitioner

vs

1.The Government of Tamilnadu,
Represented by the Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

2.The Tamil Nadu State Transport Corporation,
(Salem) Limited,
Represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, Directing the respondents to pay a sum of Rs.6, 50,000/- towards difference in Gratuity amount as per G.O.Ms. NO. 235 Finance (Pay Cell) dated 01.06.2009 and Rs.1, 70, 083/- towards Encashment of Unearned Leave on Private affairs as per Government Finance (BPE) Department Letter No.37568/ BPE/2006 dated 28.01.2008 with penal interest and interest on delayed payment of gratuity and encashment of leave on Private Affairs forthwith from the date of retirement i.e. 31.10.2007 to till date of payment and award exemplary costs.(Prayer amended as per order dated 16.11.2017 in W.M.P.No.25572/2017 in W.P.No.15313/2016)

For Petitioners : Mr.R.Krishnaswamy(in all W.Ps)

For Respondents :M/s.A.Srijayanthi, GA for R1(in all W.Ps)
Ms.Rajini Ramadoss for R2(in all W.Ps)

C O M M O N O R D E R

This Court passed an order in a batch of writ petitions, directing the respondents to disburse the retirement benefits to the employees of the Transport Corporation in installments. In a Batch of writ petitions, similar orders has been passed. The respondent Corporation preferred Review Petitions in Review Petition Nos.73 & etc., of 2018 in respect of certain difficulties aroused, while implementing the orders passed by this Court.

2.The Review Petitions also were considered by this Court

and an order was passed on 18.07.2018 and the relevant portions of the Review orders are extracted hereunder:

"3. The learned Additional Advocate General appearing on behalf of the review petitioner / Corporation raised a grounds in the review petitions stating that the employees concerned are not eligible to avail the benefits of encashment of unearned leave on private affairs and DCRG. In respect of the orders passed in some writ petitions, the individual entitlements were settled as per the Rules. A Common order was passed by this Court on the ground that the respondents are bound to settle the terminal and retirement benefits to the employees as per the Rules in force. This apart, the Court orders are clarified that the employees are eligible to get all the terminal and pensionary benefits in accordance with the Rules and as per the terms and conditions stipulated in the Pension scheme in force in the Transport Corporation.

4. In this view of the matter, the orders passed in the writ petitions are to be clarified. Considering the arguments as advanced by the learned Additional Advocate General appearing for the review petitioner / Corporation and considering the legitimate claim of the employees who served in the Transport Corporation, the review petitioner / Transport Corporation is directed to decide the eligibility and other criteria in respect of the entitlements of each employee as per the Rules and as per the terms and conditions of the Scheme and accordingly settle the benefits to the employees in accordance with law and by following the Rules.

5. The review applications stands disposed of with the above clarification. No costs. Consequently connected miscellaneous petitions are closed."

3. In the above orders cited supra, this Court has directed the respondent / Transport Corporation to decide the eligibility criteria and other criterias' in respect of the entitlements of each employee as per the rules in force and as per the terms and conditions of the scheme and settle the retirement benefits in favour of the employees in accordance with law and by following the rules.

4. It is needless to state that the employees are entitled for their retirement and terminal benefits. However, the quantum, the eligibility and other criterias' are to be ascertained on individual basis and accordingly, the benefits are to be settled without any further delay as the petitioners had already retired from service and waiting for the disbursal of retirement benefits for a long time.

5.In respect of the belated settlements of the terminal benefits, the respondent / Transport Corporation should consider the cases for grant of interest as per the rules in force.

6.With these directions, all the writ petitions stand disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kak

To

- 1.The Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem) Limited,
No.12, Ramakrishna Road,
Salem - 636 007.
- 3.The Managing Director,
(Villupuram) Limited,
Villupuram - 605 401.
- 4.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
State Transport Corp. Office,
Pallavan Salai,
Chennai - 600 002.

+1cc to Ms.Rajini Ramadoss, advocate sr.no.76097
+1cc to Government Pleader sr.no.75347

W.P.Nos.15309 to 15313 of2016

nri(co)
nr 28/11/2018