

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.31608 of 2012

1.T.K.Venkataraman  
2.S.Thiruvengadam

... Petitioners

Vs

1.The State of Tamil Nadu  
Rep by its Secretary to Government,  
Finance (BPE) Department,  
Fort St.George,  
Chennai-09.

2.The Managing Director,  
Metropolitan Transport Corporation (Chennai) Ltd.,  
Pallavan Salai,  
Chennai-2.

3.The Financial Advisor &  
Chief Accounts Officer,  
Metropolitan Transport Corporation (Chennai) Ltd.,  
Pallavan Salai, Chennai-2. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the 3<sup>rd</sup> respondent in Letter No.27248/LS(CM)V/MTC/2012 dated 27.09.2012 and quash the same and consequently direct the second and third respondents to pay the benefit of encashment of unearned leave on private affairs as per the orders contained in Government Letter No.37568/BPE/2006 dated 28.01.2008 to the petitioners.

For Petitioners : Mr.R.Prem Narayan

For Respondents : Mr.J.Pothiraj,  
Special Government Pleader for R1  
: Mr.P.Kannan Kumar for R2  
: Mr.M.Chidambaram for R3

## O R D E R

Heard Mr.R.Prem Narayan, learned counsel for the petitioners and Mr.J.Pothiraj, learned Special Government Pleader appearing for the first respondent, Mr.P.Kannan Kumar, learned counsel appearing for the second respondent and Mr.M.Chidambaram, learned counsel appearing for the third respondent.

2. The petitioners have approached this Court seeking to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the 3<sup>rd</sup> respondent in Letter No.27248/LS(CM)V/MTC/2012 dated 27.09.2012 and quash the same and consequently direct the second and third respondents to pay the benefit of encashment of unearned leave on private affairs as per the orders contained in Government Letter No.37568/BPE/2006 dated 28.01.2008 to the petitioners. "

3. When the matter is taken up for hearing, a decision of learned Division Bench of this Court rendered in W.A(MD)Nos.939 to 944 of 2017 etc., has been produced, in which, the issue raised in the present writ petition has been squarely dealt with in paragraph No.11, which is reproduced below:-

"11. As noticed above, there is a separate Service Rule for the employees of the appellants/Transport Corporation. Annexure-II of the common Service Rules deals with Unearned Leave and on perusal of the said Rules, we find that there is no such Leave Rule called as Unearned Leave on private affairs. Thus, unless and until, such a leave is contemplated under the Service Rule, the question of encashment does not arise. It is to be noted that all the respondents/writ petitioners have all served in the appellants/Transport Corporation and were bound by the Service Rules framed by the Corporation. Therefore, at this distant point of time, after they attained the age of superannuation, the question of claiming such a benefit does not arise."

4. In view of the categoric finding of the learned Division Bench, this Court being bound by the observations of the learned Division Bench, the writ petition has to be necessarily dismissed.

5. Therefore, the writ petition stands dismissed. No costs.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

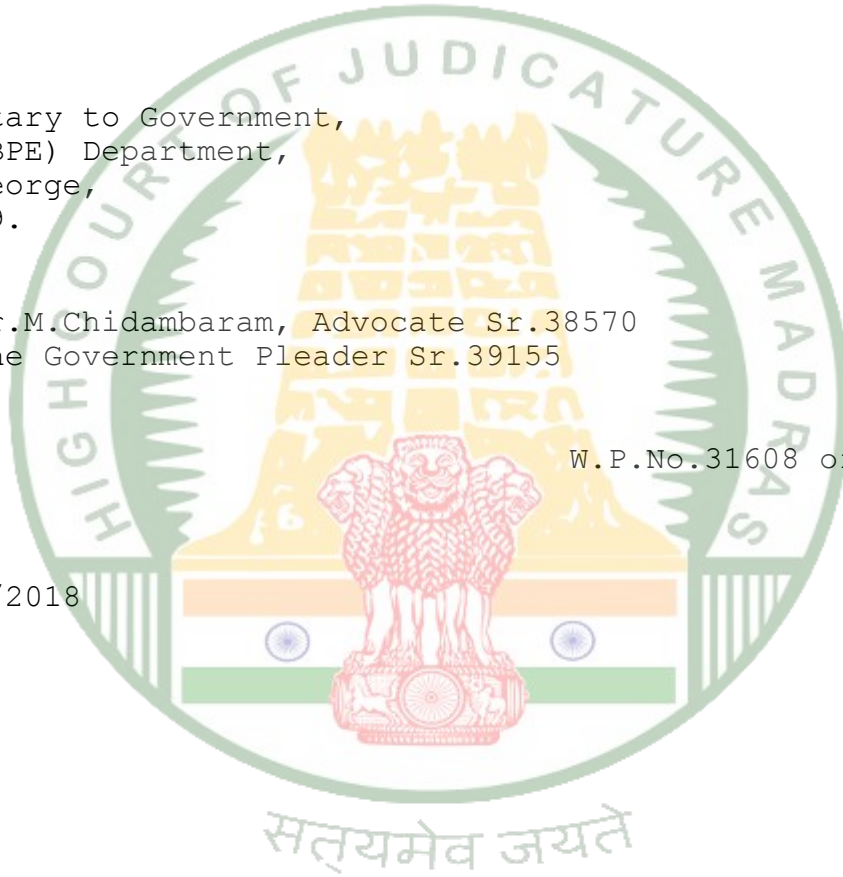
gsk  
To

The Secretary to Government,  
Finance (BPE) Department,  
Fort St.George,  
Chennai-09.

+1cc to Mr.M.Chidambaram, Advocate Sr.38570  
+1cc to the Government Pleader Sr.39155

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