

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

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

W.P.Nos.6404 to 6411 of 2016

K.CHANDRAMOULI ..PETITIONER IN WP.NO.6404 OF 2016
J.JOHN JEYAKAR ..PETITIONER in WP No.6405 of 2016
M.SEKAR ..PETITIONER in WP No.6406 of 2016
P.KANNAIYAN ..PETITIONER in WP No.6407 of 2016
R.MUTHUKRISHNAN ..PETITIONER in WP No.6408 of 2016
P.KOLANDAVELU ..PETITIONER in WP No.6409 of 2016
K.VADIVELU ..PETITIONER in WP No.6410 of 2016
M.S.SELLANDI .. PETITIONER in WP No.6411 of 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 in
WP.No.6404 to 6411 of 2016

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.1,61,277/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with penal

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interest and interest on delayed payment of gratuity and encashment of leave on Private Affairs forthwith from the date of retirement i.e. 31.3.2010 to till date of payment and the interest on delayed payment of gratuity of Rs.3,50,000/- from 01.4.2010 to 17.04.2011 i.e. Rs.65,975/- and award exemplary costs.

(Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25562 of 2017 in W.P.No.6404 of 2016)

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.1,96,801/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e., 31.5.2009 to till date of payment and award exemplary costs and pass such other orders.

(Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25563 of 2017 in W.P.No.6405 of 2016)

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.1,61,016/- towards difference in gratuity amount as per G.O.Ms.No.235, Finance (Pay Cell) dated 01.06.2009 and Rs.97,511/- towards Encashment of Unearned Leave on Private affairs as per Government Finance (BPE) Department Letter NO.37568/BPE/2006 dated 28.1.2008 with interest at 18% from the date of retirement i.e., 31.12.2009 to till date of payment and interest on delayed payment of gratuity of Rs.3,50,000/- from 01.1.2010 to 26.06.2011 and award exemplary costs and pass such other orders.

(Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25564 of 2017 in WP No.6406 of 2016)

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.1,78,620/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e., 31.3.2007 to till date of payment and award exemplary costs

(Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25565 of 2017 in WP No.6407 of 2016)

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.2,74,459/- towards difference in gratuity amount as per G.O.Ms.No.235, Finance (Pay Cell) dated 01.06.2009 and Rs.1,04,057/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) 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., 31.10.2008 to till date of payment and also the petitioner is entitled to interest on delayed payment of gratuity of Rs.3,50,000/- from 01.11.2008 to 08.02.2009, i.e. Rs.13,425/- and award exemplary costs and pass such other orders. (Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25566 of 2017 in WP No.6408 of 2016)

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.1,82,466/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e., 31.08.2007 to till date of payment and award exemplary costs and pass such other orders. (Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25567 of 2017 in WP No.6409 of 2016)

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.5,24,426/- towards difference in gratuity amount as per G.O.Ms.No.235, Finance (Pay Cell) dated 01.06.2009 and Rs.1,38,186/- towards Encashment of Unearned Leave on Private affairs as per Government Finance(BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e., 30.06.2009 to till date of payment and interest on delayed payment of gratuity of Rs.3,50,000/- from 30.06.2009 to 07.02.2011 and award exemplary costs and pass such other orders. (Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25568 of 2017 in WP No.6410 of 2016)

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.1,67,496/- towards Encashment of Unearned Leave on Private affairs as per Government Finance (BPF) Department Letter No.37568/BPE/2006 dated 28.01.2008 with interest at 18% from the date of retirement i.e., 31.10.2008 to till date of payment and award exemplary costs.
(Prayer Amended as per order dated 16.11.2017 by SMSJ in W.M.P.Nos.25569 of 2017 in WP No.6411 of 2016)

For Petitioner : Mr.R.Krishnaswamy

For Respondents : M/s.A.Srijayanthi, GA for R1
Mr.Rajini Ramadoss for R2

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/-

सत्यमेव जयते Assistant Registrar (CS IX)

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Sub Assistant Registrar

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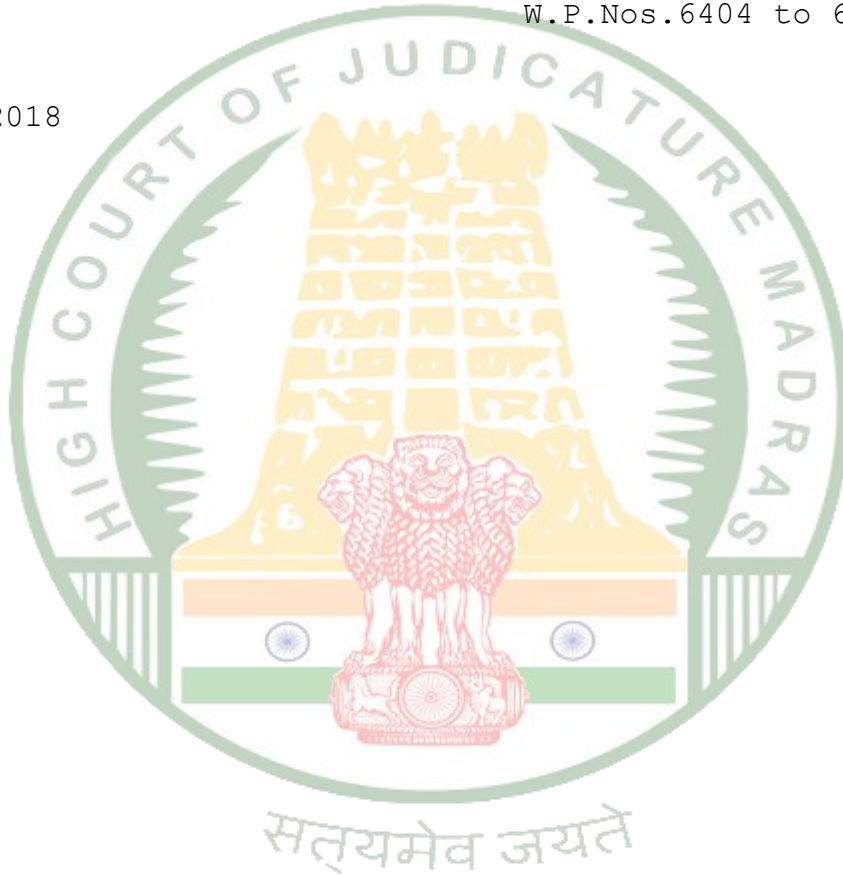
1. The Chairman &
Principal Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

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

+1cc to Mr.V.Ajoykhose, Advocate, S.R.No.74591
+1cc to Mr.Rajini Ramadoss, Advocate, S.R.No.76099
+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.74620
+1cc to the Government Pleader, S.R.No.75346

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SS (CO)
CS/05/12/2018



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