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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD)Nos.939 to 944 of 2017 and 326 of 2018

and

W.P(MD)Nos.1692 of 2018, 21790, 21308, 21412, 21420, 21421 and 21432
of 2017

and

C.M.P(MD)Nos.6365 to 6370 and 2039 of 2018

1.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Rep. By its Managing Director,
Kumbakonam.

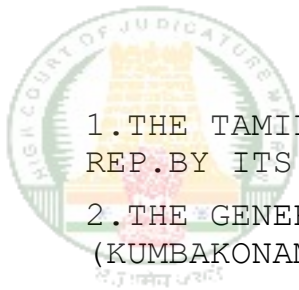
2.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam Region,
Kumbakonam.

3.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Pudukkottai Region,
Pudukkottai.

4.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region,
Karaikudi.

5.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Trichy.

6.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Nagapattinam Region,
Nagapattinam.



1.THE TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP.BY ITS MANAGING DIRECTOR, KUMBAKONAM.

2.THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, PUDUKKOTTAI REGION, PUDUKKOTTAI.

... Petitioners in WA(MD). 940/ 2017

1.THE TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP.BY ITS MANAGING DIRECTOR, KUMBAKONAM.

2.THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, PUDUKKOTTAI REGION, PUDUKKOTTAI.

... Petitioners in WA(MD). 941/ 2017

1.THE TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP.BY ITS MANAGING DIRECTOR, KUMBAKONAM.

2.THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, PUDUKKOTTAI REGION, PUDUKKOTTAI.

... Petitioners in WA(MD). 942/ 2017

1 THE TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP.BY ITS MANAGING DIRECTOR, KUMBAKONAM.

2 THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD., KUMBAKONAM REGION, KUMBAKONAM.

3 THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, PUDUKKOTTAI REGION, PUDUKKOTTAI.

4 THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, KARAİKUDI REGION, KARAİKUDI.

5 THE GENERAL MANAGER TAMILNADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD, TRICHY REGION, TRICHY.

... Petitioners in WA(MD). 943/ 2017

1 THE TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP.BY ITS MANAGING DIRECTOR, KUMBAKONAM.

2 THE GENERAL MANAGER TAMIL NADU STATE TRANSPORT CORPORATION,
(KUMBAKONAM) LTD. NAGAPATTINAM REGION, NAGAPATTINAM.

... Petitioners in WA(MD). 944/ 2017

THE MANAGING DIRECTOR M/S. TAMILNADU STATE TRANSPORT CORPORATION,
(MADURAI) LIMITED, BYE PASS ROAD, MADURAI-625 016.

... Petitioners in WA(MD). 326/ 2018

U.NEELAMEGAM, S/O.UDAIYAR 1429, PAVALAMALLI STREET, VALLUVAR
NAGAR, SEKKALAI, KARAİKUDI, SIVAGANGAI DISTRICT.

... Petitioner in WP(MD). 1692/ 2018



G.RAJENDRAN
THIRUVARUR

S/O.GOVINDASAMY, 32/H, BAVA GOPALSAMY STREET,

... Petitioner in WP(MD). 21790/ 2017

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K.BHOOPATHI, S/O.KRISHNAN PILLAI, 27-A, PATHAI KADAI LANE,
CHINNAKADAI STREET, TRICHY - 620 002.

... Petitioner in WP(MD). 21308/ 2017

N.ARUNACHALAM, S/O.NAGAMUTHU 127, NETHAJI STREET, TRICHY - 620 011

... Petitioner in WP(MD). 21412/ 2017

R.CHANDRASEKARAN, S/O.RAMADOSS, NO.4, ABARNA APARTMENT, NO.10,
OFFICERS COLONY, PUTHUR, TRICHY.

... Petitioner in WP(MD). 21420/ 2017

S.ANBALAGAN, S/O.SENDADUVAN, 77/1, PIDARI SOUTH STREET, SEERKAZHI,
NAGAPATTINAM DIST.

... Petitioner in WP(MD). 21421/ 2017

S.RADHA, S/O.SAMUTHIRAM, 559, MAIN ROAD, MUDIKONDAN, NANNILAM -
TALUK, THIRUVARUR DISTRICT.

... Petitioner in WP(MD). 21432/ 2017

Vs.

- 1.S.Venugopal
- 2.C.Sundaram
- 3.P.Marimuthu
- 4.C.Varadharajan
- 5.K.Sekar
- 6.G.Susai Regis
- 7.P.Muthukrishnan
- 8.K.Ravi
- 9.A.Rajendran
- 10.D.Subbaraj
- 11.G.Krishnamoorthy
- 12.S.Krishnamoorthy
- 13.P.Sankaran
- 14.P.Sundararaju
- 15.M.Chandran
- 16.A.Vajjiravelu
- 17.P.Thulasi Ayyah
- 18.B.Balasubramanian
- 19.N.Thiagarajan
- 20.G.Pazhamalai



21.G.Gangadharan
22.A.Venkatachalam
23.SP.Nagarajan

... Respondents 1 to 23/Petitioners

24.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Transport Department and Chairman of Board
of Directors,
State Transport Undertakings,
Fort St. George,
Chennai - 600 009.

25.The Secretary to the Government of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai - 600 009.

26.The Administrator,
The Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai - 600 002.

... Respondents 24 to 26/

Respondents 1, 2 & 9 in **W.A(MD)No.939 of 2017**

- Vs. -

1 N. MARUTHAN SELECTION GRADE SUPERINTENDENT (RETD), 12386, TNSTC
(KUMBAKONAM) LTD., PUDUKKOTTAI REGION, 1181, KAMBAN
NAGAR, RAJAGOPALAPURAM POST, PUDUKKOTTAI-622 003.

2 THE ADMINISTRATOR TAMIL NADU STATE TRANSPORT CORPORATION PENSION
FUND TRUST, THIRUVALLUVAR HOUSE, PALLAVAN SALAI, CHENNAI-600 002.

... Respondents in WA(MD). 940/ 2017

1 V. RENGASAMY, SENIOR SUPERINTENDENT (RETD), 85AS4008/12389, TNSTC
(KUMBAKONAM) LTD., 3568/B, KUMARAN NAGAR 3RD ST, ASHOK NAGAR
EXTENSION, THIRUKATTALAI PO, PUDUKKOTTAI-622 303.

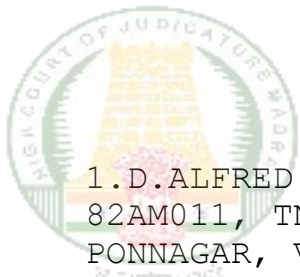
2 THE ADMINISTRATOR TAMIL NADU STATE TRANSPORT CORPORATION PENSION
FUND TRUST, THIRUVALLUVAR HOUSE, PALLAVAN SALAI, CHENNAI-600 002.

... Respondents in WA(MD). 941/ 2017

1.P.P.V.VELAYUDHAM SUPERINTENDENT (RETD), 86AS4001/1239112386, TNSTC
(KUMBAKONAM) LTD., 8/4, VALLALAR STREET, NATTARASANKOTTAI POST,
SIVAGANGAI DISTRICT.

2.THE ADMINISTRATOR TAMIL NADU STATE TRANSPORT CORPORATION PENSION
FUND TRUST, THIRUVALLUVAR HOUSE, PALLAVAN SALAI, CHENNAI-600 002.

... Respondents in WA(MD). 942/ 2017



1.D.ALFRED THINAKARAN S/O.DEVAASEERVATHAM, SPECIAL OFFICER (RETD), 82AM011, TNSTC (KUM) LTD., PUDUKKOTTAI REGION, RES AT 10/4, SHALOM, PONNAGAR, VILANGUDI, MADURAI-625 018.

2.K.V.KARUNANITHY S/O.K.VISWANATHAN, GENERAL MANAGER (RETD), 85AM003/O.NO.2545, TNSTC(KUM) LTD., TRICHY REGION, RES AT A72, 2ND CROSS, DHEERAN NAGAR, TRICHY-9.

3.N.RAJENDRAN, S/O.A.NADIMUTHU, SPECIAL OFFICER (RETD), 80AM003, TNSTC (KUM) LTD., KUMBAKONAM REGION, RES AT F1, 166, V.V.GIRI STREET, RAMAKRISHNA NAGAR, ALWARTHIRUNAGAR, CH-87.

4.N.ARUNACHALAM S/O.A.NATESAN, DEPUTY MANAGER (RETD), 99AS4001, TNSTC (KUM) LTD., PUDUKKOTTAI REGION, D.NO.3885, ASHOK NAGAR, PUDUKKOTTAI.

5.A.S.JANAKIRAMAN S/O.A.SRINIVASALU, ASST MANAGER (LEGA) (RETD), 85AS1001, TNSTC(KUM) LTD., KUM REGION, RES AT O.NO.28, N.NO.61, ALANGATHA STREET, TRIPPLICANE, CH-5.

6.G.KARUNANITHI S/O.GOVINDASAMY, SUPERINTENDENT (RETD), STAFF NO.81AD1020, TNSTC(KUM) LTD., KUM REGION, 21, NORTH ST, SENDANGADU PO, PATTUKKOTTAI TK, THANJAVUR DT.

7.B.LAKSHMANAN S/O.R.BALAKRISHNAN PILLAI, SUPERINTENDENT (RETD), 86AD005, TNSTC(KUM) LTD., KUM CORPORATE OFFICE, RES AT 35, RAMAKRISHNA ILLAM, MELAPLERUMPALLAM PO, NAGAI DT.

8.R.VENKATASUBRAMANIAN SUPERINTENDENT(RETD), 88AS84005/14566, TNSTC (KUM) LTD., PDKT REGION, RES AT 42, TRANSPORT NAGAR 5TH STREET, LAKSHMI NIVAS, KALANIVASAL, KARAUKUDI.

9.AR.ARUMUGAM S/O.ARUMUGAM, SUPERINTENDENT (RETD), 84029, TNSTC (KUM) LTD., KARAUKUDI REGION, RES AT 6/61, SEMINI STREET, KONAPET POST, PUDUKKOTTAI DT.

10.THE STATE OF TAMILNADU REP.BY ITS SECRETARY TO GOVERNMENT, TRANSPORT DEPARTMENT AND CHAIRMAN OF BOARD OF DIRECTORS, STATE TRANSPORT UNDERTAKINGS, FORT.ST.GEORGE, CH-09

11.THE ADMINISTRATOR THE TAMILNADU STATE TRANSPORT CORPORATION PENSION FUND TRUST, THIRUVALLUVAR HOUSE, PALLAVAN SALAI, CHENNAI-600 002.

... Respondents in WA(MD). 943/ 2017

R. BASKARAN SUPERINTENDENT(RETD), STAFF NO. 81AD 1001, TAMIL NADU STATE TRANSPORT CORPORATION, (KUMBAKONAM) LTD., 23, KALLUKARA STREET, NAGAPATTINAM-611 001.

... Respondent(s) in WA(MD). 944/ 2017

G.THAVASI APPAN S/O.K.A.S.GURUSAMY NADAR, 74, MASILAMANIPURAM, DINDIGUL-625 005.

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

... Respondent in WA(MD). 326/ 2018



THE MANAGEMENT OF TAMILNADU STATE TRANSPORT CORPORATION (KUM)
LTD., KARAIKUDI REGION, REP. BY ITS GENERAL MANAGER, KARAIKUDI.

... Respondent in WP(MD). 1692/ 2018

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THE MANAGEMENT OF TNSTC(KUMBAKONAM)LTD., REP. BY ITS MANAGAING
DIRECTOR, KUMBAKONAM

... Respondent in WP(MD). 21790/ 2017

THE MANAGEMENT OF TAMILNADU STATE TRANSPORT CORPORATION
(KUMBAKONAM LTD, TRICHY REGION, REP. BY ITS GENERAL MANAGER, TRICHY.

... Respondent in WP(MD). 21308/ 2017

THE MANAGEMENT OF TAMIL NADU STATE TRANSPORT CORPORATION
(KUMBAKONAM) LTD., TRICHY REGION, REP. BY ITS GENERAL MANAGER,
TRICHY.

... Respondent in WP(MD). 21412/ 2017

THE MANAGEMENT OF TAMIL NADU STATE TRANSPORT CORPORATION
(KUMBAKONAM) LTD., TRICHY REGION, REP. BY ITS GENERAL MANAGER,
TRICHY.

... Respondent in WP(MD). 21420/ 2017

THE MANAGEMENT OF TAMIL NADU STATE TRANSPORT CORPORATION
(KUMBAKONAM) LTD, REP. BY ITS MANAGING DIRECTOR, KUMBAKONAM.

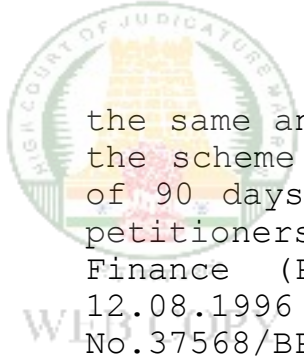
... Respondent in WP(MD). 21421/ 2017

THE MANAGEMENT OF TAMIL NADU STATE TRANSPORT CORPORATION
(KUMBAKONAM) LTD., REP. BY ITS MANAGING DIRECTOR, KUMBAKONAM.

... Respondent in WP(MD). 21432/ 2017

Prayer in WA(MD)Nos.939 to 944/17 and 326/2018: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 02.12.2016 made in 1) W.P(MD)No.2323 of 2016 2) WP(MD)No.20004/16 3) WP(MD)No.20831/2016 4)WP(MD)No.20836/2016 5)WP(MD)No.21517/16 6)WP(MD)No.22882/2016 7)WP(MD)No.20542/13 respectively.

Prayer in W.P. (MD) No.2323 of 2016:- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned letter of the first respondent, in Letter No.31310/Fin (BPE) Dept. /2011, dated 15.02.2012, quash



the same and consequently to direct the respondents 3 to 9 to extend the scheme of encashment of leave on private affairs for the period of 90 days to the petitioners and to pay monetary benefits to the petitioners based on the said scheme in terms of G.O.Ms.No.488, Finance (Pension) Department, Government of Tamil Nadu, dated 12.08.1996 and letter of the second respondent in Letter No.37568/BPE/2006, dated 28.01.2008, together with interest at the rate of 18% per annum, from the date of retirement of the petitioners to till the date on which the above monetary benefits are settled to them .

Prayer in WP(MD). 20004/ 2016 :

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 extend the benefit of encashment of unearned leave on private affairs for 90 days to the petitioner and to pay his monetary benefits accrued thereon together with interest at the rate of 18% per annum payable from the date of retirement of the petitioner to till the date of payment of the above monetary benefits are settled within the time that may be stipulated by this Honble Court.

Prayer in WP(MD). 20831/ 2016 :

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 extend the benefit of encashment of unearned leave on private affairs for 90 days to the petitioner and to pay his monetary benefits accrued thereon together with interest at the rate of 18% per annum from the date of retirement of the petitioner to till the date of payment of the above monetary benefits are settled within the time that may be stipulated by this Honourable Court.

Prayer in WP(MD). 20836/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS to directing the Respondents to extend the benefit of encashment of unearned leave on private affairs for 90 days to the petitioner and to pay his monetary benefits accrued thereon together with interest on the rate of 18% per annum payable from the date of retirement of the petitioner to till the date of payment of the above monetary benefits are settled within the time that may be stipulated by this Hon'ble Court.

Prayer in WP(MD). 21517/ 2016 :

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 extend the benefit of encashment of unearned leave on private affairs for 90 days to the petitioners and to pay their monetary benefits accrued thereon together with interest at the rate of 18% per annum payable from the



date of retirement of the petitioners to till the date on which the above monetary benefits are settled within the time that may be stipulated by this Hon'ble Court.

Prayer in WP(MD). 22882/ 2016 :

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 extend the benefit of encashment of unearned Leave on Private Affairs for 90 days to the petitioner and to pay his monetary benefits accrued thereon together with interest at the rate of 18% per annum payable from the date of retirement of the petitioner to till the date of payment of the above monetary benefits are settled.

Prayer in WP(MD). 20542/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Madamus directing the respondent to pay the encashment of unearned leave on private affairs for period of 90 days to the petitioner and to pas such other or further orders as this Hoble Court.

Prayer in WP(MD). 1692/ 2018 :

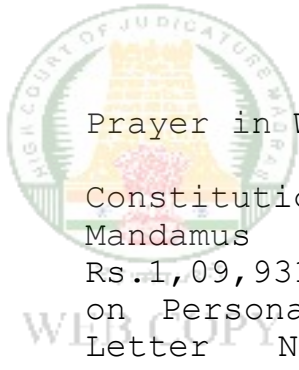
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondent to pay the petitioner Rs.93,513/- towards the benefit of encashment of 90 days of Leave on Personal Affairs, as per the Government order passed in its Letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum, within a time frame as may be fixed by this Hon'ble Court.

Prayer in WP(MD). 21790/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue appropriate writs, orders or directions and in particular issue a writ of mandamus directing the respondents to pay the petitioner Rs.1,41,455/- towards the benefit of encashment of 90 days of leave on personal affairs, as per the government order passed in its letter no.37568/BPE/2006, finance(BPE) department, dated 28.01.2008, together with 18% interest per annum, within a time frame as may be fixed by this honble court and thus render justice

Prayer in WP(MD). 21308/ 2017 :

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 petitioner Rs.1,02,267/- towards the benefit of encashment of 90 days of Leave On Personal Affairs, as per the Government order passed in its Letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum, within a time frame as may be fixed by this Hon'ble Court.



Prayer in WP(MD). 21412/ 2017 :

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 petitioner Rs.1,09,931/- towards the benefit of encashment of 90 days of Leave on Personal Affairs, as per the Government order passed in its Letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum, within a time frame as may be fixed by this Hon'ble Court.

Prayer in WP(MD). 21420/ 2017 :

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 petitioner Rs.1,48,320/- towards the benefit of encashment of 90 days of Leave on Personal Affairs, as per the Government order passed in its letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum, within a time frame as may be fixed by this Hon'ble Court.

Prayer in WP(MD). 21421/ 2017 :

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 petitioner Rs.2,05,650/- towards the benefit of encashment of 90 days of Leave On Personal Affairs, as per the Government order passed in its Letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum within a time frame as may be fixed by this Honble Court.

Prayer in WP(MD). 21432/ 2017 :

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 petitioner Rs.1,41,609/- towards the benefit of encashment of 90 days of Leave On Personal Affairs, as per the Government Order passed in its letter No.37568/BPE/2006, Finance (BPE) Department, dated 28.01.2008, together with 18% interest per annum within a time frame as may be fixed by this Honble Court.

For Appellants : Mr.D.Sivaraman
in WA's 939 to 944/2017

For RR 1, 2, 6, 7, 8, 9,
11,13, 14, 17 & 21 : Mr.A.Rahul
(in WA.939/17)

Mr.A.Rahul for R1 in WA(MD)No.940/17

R2 No Appearance



Mr.A.Rahul for RR5, 6 & 8 in WA.943/17

Mr.V.R.Shanmuganathan Special Government Pleader for R10 in
WA (MD) No.943/2017

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Mr.A.Rahul for Sole Respondent in WA.944/17

W.A.No.326/2018:-

Mr.A.Jeyaram for Appellant in WA.326/2018
Mr.C.Thangamani for Respondent in WA.326/2018

WP's 1692/18, 21790, 21308, 21412, 21420, 21421 and 21432/2017:

Mr.S.Arunachalam for Petitioner in all WP's
Mr.D.Sivaraman for Respondent in all WP's

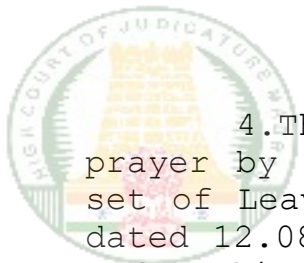
COMMON JUDGMENT

(Judgment of the Court was delivered by
T.S.SIVAGNANAM, J.)

These writ appeals have been filed by the Tamil Nadu State Transport Corporation (Kumbakonam) Limited, challenging the common order passed in batch of cases in W.P(MD)Nos.2323, 18731, 18732, 18736, 20830, 20831, 20836, 20003, 20004, 21517 and 22882 of 2016, dated 02.12.2016.

2.These writ petitions were allowed by directing the appellants/Corporation to permit the respondents/writ petitioners to encash the leave on private affairs. All the respondents/writ petitioners are all managerial/supervisory cadre officers and staffs, who worked in the appellants/Transport Corporation, and as of now, they have attained the age of superannuation. In the year 2016, they approached this Court and filed Writ Petitions praying for a direction, directing the appellants/Transport Corporation to extend the benefit of surrender and encashment of unearned leave on private affairs for the period of 90 days to the respondents/writ petitioners and to pay monetary benefits to the respondents/writ petitioners with interest at the rate of 18% per annum payable, from the date of retirement of the respondents/writ petitioners to till the date of payment of the said monetary benefit, based on the scheme of unearned leave on private affairs.

3.Their arguments was based upon G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 and the Government Letter, dated 28.01.2008 and a Resolution was passed by the appellants/Transport Corporation in its meeting convened on 15.02.2012, wherein, the Board recommended for implementation of the Government Order/letter regarding encashment of unearned leave on private affairs at the time of retirement.



4.The appellants/Transport Corporation resisted the said prayer by contending that the Transport Corporation has a separate set of Leave Rules and G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 cannot be extended to the Government of Tamil Nadu undertaking, such as the appellants/Transport Corporation. Further, it was contended that though there was a Clarificatory Letter, dated 28.01.2008 extended the benefit of G.O.Ms.No.488 to the State Public Sector undertaking, subsequently, the Government have clarified by letter, dated 15.02.2012 that "only those Statutory Boards/State Public Sector Undertakings whose service Regulations/Service Rules provide for extension of this scheme may continue to sanction the benefit of encashment of Unearned Leave on Private Affairs to their employees at the time of their retirement from the date of the orders issued in Government letter, dated 28.01.2008 without seeking financial assistance from the Government".

5.Therefore, the appellants/Transport Corporation contended that the respondents/writ petitioners are attempting to achieve the relief indirectly what they cannot directly achieve. Though the said contention was raised in W.P(MD)No.7423 of 2014, the same came to be allowed. The matter was taken on appeal and the Division Bench of this Court in *W.A(MD)No.1352 of 2015, (the Government of Tamil Nadu Vs. P.Gurusami)*, dismissed the writ appeal, which concerned the claim made by the Managerial/Supervisory staffs of Tamil Nadu Tea Plantation Corporation Limited by referring paragraph No.17 of the Judgment and this Court allowed the Writ Petitions as prayed for.

6.We have heard the learned counsels appearing for the parties and perused the materials placed on record.

7.It is an admitted fact that G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 issued by the State Government did not extend the benefit of encashment of unearned leave on private affairs at the time of retirement to the State Government undertakings or statutory bodies etc and such benefit was extended to the Government servants and the maximum period was stipulated as 90 days. Thus, by virtue of G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996, the respondents/writ petitioners cannot make a claim for the encashment of the unearned leave on private affairs.

8.The problem arose on account of a letter, dated 28.01.2008. Admittedly, the Government order cannot superseded by a Government letter, which has been issued by the Secretary of the Government. At the best, it is advisory and not mandatory in which, a clarification was issued that the scheme of encashment of unearned leave on private affairs ordered in G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 may also be extended of employees of statutory bodies and the State Government undertakings. It appears that a thorough exercise was not undertaken by the Finance Department before issuing the Clarificatory Letter, dated 28.01.2008. Subsequently, it appears that the matter was brought to



the knowledge of the Finance Department, the Secretary to the Government of Tamil Nadu and appropriate clarification was issued by the Government on 15.02.2012, whereby, making it clear that if a State Public sector undertaking has such a provision in their Regulations and Service Rules, they may continue to do so. In the said Government letter, in paragraph No.3, the Government specifically took note of the fact that few State Public Sector Undertakings have extended the benefit of encashment of Unearned Leave on Private Affairs to their employees, even though there was no provision in their services rules for extension of such benefit and seek later orders for ratification from the Government. That apart, in paragraph No.4(ii), the Government had specifically clarified that the scheme should not be extended to the employees of State Public Sector Undertakings, whose Service Rules did not contain the provision for encashment of unearned Leave on private affairs.

9. Thus the mistake committed by the Government in issuing a letter, dated 28.01.2008, stood and appropriately clarified by the Finance Department. In the interregnum i.e., in the year 2010, the Board of the appellants/Transport Corporation placed the Government Order, dated 28.01.2008 for consideration and the decision taken in the meeting held on 15.06.2010 states "recorded for implementation". The fact remains that though such resolution was passed, the same remained un-implemented and well before that could take place, the Government had clarified that such scheme will not apply to State Public Sector Undertakings whether there is no Service Rule or Regulation to that effect. Therefore, reliance placed on resolution by the learned counsel for the respondents/writ petitioners is self-serving, it is more so, because the respondents/writ petitioners, who have come forward before this Court claiming the benefits are all persons in the Managerial/Supervisory cadre.

10. Insofar as the decision in the case of Tamil Nadu Tata Plantation Corporation Limited is concerned, we find that the case is factually different and taking note of the conduct of the respondents in the said case, the Division Bench had issued the direction. In any event, we find that the correctness of the said decision has been challenged before the Honourable Supreme Court and stay of the Judgment has been granted in S.L.P.No.23510-23513/2016, dated 14.12.2016.

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.



12. In the result, these Writ Appeals are allowed and the order, dated 02.12.2016 passed in W.P(MD)Nos.2323, 18731, 18732, 18736, 20830, 20831, 20836, 20003, 20004, 21517 and 22882 of 2016 are set aside and the Writ Petitions are dismissed. The other writ petitions, which has been posted along with the Writ Appeals, are also dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government, The State of Tamil Nadu,
Transport Department and Chairman of Board
of Directors,
State Transport Undertakings,
Fort St. George, Chennai - 600 009.
 2. The Secretary to the Government of Tamil Nadu,
Finance (Pension) Department, Fort St. George, Chennai-600 009.
 3. The Administrator,
The Tamil Nadu State Transport Corporation Pension Fund Trust,
Thiruvalluvar House, Pallavan Salai, Chennai - 600 002.
- +4ccs to Mr.D.Sivaraman, Advocate, SR.No.58755
- +6ccs to Mr.A.Rahul, Advocate, SR.Nos.58767 to 58772
- +1cc to Mr.C.Thangamani, Advocate, SR.No.58525
- +1cc to Mr.S.Arunachalam, Advocate, SR.No.58664

ps

RL/16C/13P/SV/MMS/SAR2/3/5/2018

W.A(MD)Nos.939 to 944 of 2017 and 326 of 2018
and
W.P(MD)Nos.1692 of 2018, 21790,
21308, 21412, 21420,
21421 and 21432 of 2017
27.03.2018