

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P.No.32198 of 2018

V.Lakshmi Narayanan

.. Petitioner

Vs.

1. The Additional Chief Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.

2. M/s.Tamil Nadu State Transport
Corporation (Kum) Ltd.,
Rep. by its Managing Director,
Railway Station New Road,
Kumbakonam.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus to direct the 2nd respondent to settle the eligible amount for 105 days of Earned Leave surrendered for the period from 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017 as per the commitment made by the 2nd respondent under Section 12(3) of the settlement with 6% interest by considering the representation of the petitioner dated 22.11.2018.

For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.R.S.Selvam
Government Advocate for R1
Mr.P.Kannan Kumar
Standing Counsel for R2

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O R D E R

This Writ Petition has been filed, seeking to direct the 2nd respondent to settle the eligible amount for 105 days of Earned Leave surrendered for the period from 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 & 2016-2017 as per the commitment made by the 2nd respondent under settlement effected u/s.12(3) of the I.D. Act, with 6% interest by considering the representation of the petitioner dated 22.11.2018.

2. The case of the petitioner is that he joined the services of the 2nd respondent Corporation as Junior Clerk during the year 1981 and after periodical promotion, he was promoted as Special Grade Assistant and retired from service on 30.06.2017; that his earned leave salary has not been disbursed to him in respect of the years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017 on the ground that the 2nd respondent Corporation is facing financial crisis and therefore, the petitioner is before this Court seeking the relief stated supra.

3. Learned counsel appearing for the petitioner has relied upon a decision of this Court in the case of K.Veerasingh Vs. The State of Tamil Nadu and Others in W.P.(MD) No.17903 of 2016 dated 06.10.2016, by which, this Court has directed the respondents to consider the claim of the petitioner for payment of the earned leave surrender salary in respect of the years 2010-2011, 2011-2012 and 2012-2013 and pay the eligible amount to the petitioner. Hence, this case may also be considered on the same lines.

4. Learned counsel appearing for the respondents would submit that it is not in dispute that the petitioner is entitled to earned leave surrender salary and it has to be ascertained as to whether he has made any claim for disbursement of the said salary in the respective years. He has submitted that it has to be further ascertained as to whether the period for which leave salary is claimed in this Writ Petition has been included in the final settlement of surrender leave salary of 240 days after his retirement or not. Moreover, the respondent Corporation has been undergoing severe economical constraints, which is also one of the reasons for not releasing the amount.

5. The financial crisis cannot be the ground to deprive the benefit of surrender leave salary to the petitioner, especially when the claim of earned leave surrender salary for 15 days per year or 30 days once in two years has been agreed in the settlement effected under Section 12(3) of the Industrial Disputes Act, 1947.

6. Therefore, the respondents are directed to consider the claim of the petitioner for payment of the earned leave surrender salary in respect of the years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017 and pay the eligible amount to the petitioner as per the commitment made by the respondents under Section 12(3) settlement within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asi/avr

To

1. The Additional Chief Secretary to Government,
Transport Department,
Secretariat, Chennai - 600 009.
 2. The Managing Director,
M/s.Tamil Nadu State Transport
Corporation (Kum) Ltd.,
Railway Station New Road,
Kumbakonam.
- +1 cc to Mr.P.Kannan Kumar, Advocate, S.R.No.905
+1 cc to Mr.D.Soundar Raj, Advocate, S.R.No.1287
+1 cc to the Government Pleader, S.R.No.1055

SV(CO)
SSM(19/02/2019)

W.P.No.32198 of 2018

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