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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.21049 of 2018

G.Hilarian

... Petitioner

vs.

1.The Government of Tamil Nadu,
rep.by its
Additional Chief Secretary to Government
Transport Department,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Corporate Office, V.M.Chathiram,
KTC Nagar, Tirunelveli,
Tirunelveli Taluk & District - 627 003.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Nagercoil Region,
Rani Thottam,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the respondents 2 and 3 to disburse the amount of Rs.29,000/- which was deducted from the petitioner's salary of July, 2017 and 60 days earned leave together with 18% rate of interest to the petitioner within the time that may be stipulated by this Court.

For Petitioner	:	Mr.N.Sudhagar Nagaraj
For R1	:	Mr.S.Angappan Government Advocate
For R2 & R3	:	Mr.K.Sathiyasingh

ORDER

The petitioner has come before this Court seeking a direction to the respondents 2 and 3 to disburse a sum of Rs.29,000/- which was deducted from his salary and to pay 60 days earned leave salary together with 18% interest.

2.Heard the learned counsel for the petitioner; the learned Government Advocate for the first respondent and the learned



Standing Counsel for the respondents 2 and 3.

3. According to the petitioner, he worked as Special Grade Conductor under the third respondent Corporation and retired from service on 31.07.2017. As the third respondent deducted a sum of Rs.29,000/- from the petitioner's salary and also deducted Earned Leave salary for 60 days, the petitioner has given a representation dated 04.10.2018 to the respondents, to disburse the same with 18% interest. As the same has not been considered, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that this Court passed orders in similar circumstances in WP(MD)No.17906 of 2017 dated 21.09.2017 [R.Sugumar vs. the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and another. The relevant portions of the order read as follows:

"2.The learned counsel for the petitioner also placed reliance on the order passed by this Court in **W.P. (MD)No.17789 of 2016** dated **06.10.2016** in the case of **R.Arumugam Vs. The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and other**, which reads as follows:

"5. The financial crisis cannot be the ground to deprive the benefit of earned leave surrender 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 admitted 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 2010-2014 and pay the eligible amount to the petitioner as per the commitment made by the respondent under Section 12(3) settlement within a period of eight weeks from the date of receipt of copy of this order."

3. The petitioner is before this Court to issue a similar direction to the respondents to settle the surrender salary leave for 75 days which are accumulated for 5 years from 2011-2015 with permissible interest.

4. Mr.D.Sivaraman, learned Standing Counsel for TNSTC, who takes notice for the respondents sought sufficient time to consider the petitioner's representation.

5. In view of the above, the respondents are directed to consider the petitioner's representation dated 13.08.2017, and pass orders on merits, within

a period of six weeks from the date of receipt of copy of this order.

Hence, the learned counsel sought a similar order in this writ



petition as well.

5.The learned counsel appearing for the respondents have no serious objection in granting such relief to the petitioner.

6.In view of the above, the respondents are directed to consider the petitioner's representation dated 04.10.2018, and pass orders on merits and in accordance with law and also in line with the order passed in *WP(MD)No.17906 of 2017 dated 21.09.2017*, within a period of six weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar(CS)

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To

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

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Corporate Office, V.M.Chathiram,
KTC Nagar, Tirunelveli,
Tirunelveli Taluk & District - 627 003.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Nagercoil Region, Rani Thottam,
Kanyakumari District.

+1CC TO MR.N.SUDHAGAR NAGARAJ, Advocate Sr. No. 55819

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.56119

W.P(MD) No.21049 of 2018

TR (15.04.2019) 3P 6C