



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.14224 to 14227 of 2018

and

W.M.P. (MD)Nos.12869 to 12872 of 2018

WEB COPY

G.Mari	...	Petitioner in W.P. (MD)No.14224 of 2018
M.Kannan	...	Petitioner in W.P. (MD)No.14225 of 2018
S.Murugesan	...	Petitioner in W.P. (MD)No.14226 of 2018
G.Thiagarajan	...	Petitioner in W.P. (MD)No.14227 of 2018

-Vs-

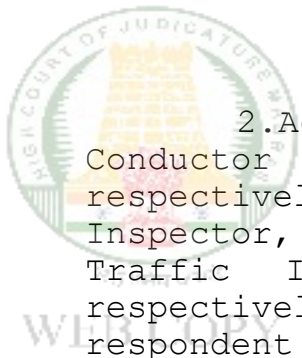
- 1.The Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.
 - 2.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region, Karaikudi
- ... Respondents
in all Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned circular of the first respondent in proceedings in Ref.No.TNSTC / KUMBA / MaVaMe / Thani /2018, dated 22.03.2018, quash the same and consequently, directing the respondents to settle the petitioners' surrender leave salary of Rs.1,54,742/- from 2011 to 2016, Rs.41,560/- from 2013 to 2016, Rs.1,34,229/- from 2011 to 2016 and Rs.1,32,329/- from 2010 to 2017 respectively, together with interest at the rate of 18% per annum payable from the date of retirement to till the date of actual payment.

For Petitioner	: Mr.A.Rahul (in all Writ Petitions)
For Respondents	: Mr.D.Sivaraman (in all Writ Petitions)

COMMON ORDER

The order of the first respondent dated 22.03.2018, is sought to be quashed in these Writ Petitions and further direction is sought for to direct the respondents to settle the petitioners' Earned Leave Wages with interest at the rate of 18% per annum, within the time limit that may be stipulated by this Court.



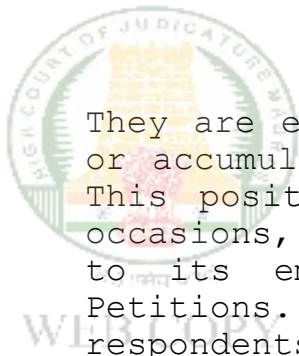
2. According to the petitioners, they were appointed as Conductor on 14.08.1980, 01.05.1989, 01.12.1980 and 22.01.1985 respectively and retired from service on 30.06.2016 as Traffic Inspector, on 31.08.2016 as Checking Inspector, on 29.02.2016 as Traffic Inspector and on 31.05.2017 as Checking Inspector respectively, on attaining the age of superannuation. The respondent Management and employees Union entered into settlement under Section 12(3) of the Industrial Disputes Act relating to the service condition of the employees' of respondent Corporation. One of the clauses is that the petitioners are entitled to 30 days Earned Leave in a year. The petitioners can surrender 15 days of Earned Leave and accumulate their 15 days Earned Leave in a year.

3. The learned counsel appearing for the petitioners contended that one Saminathan, Special Grade Assistant of Trichy Region of the first respondent Corporation has submitted a representation under RTI Act to the Public Information Officer, seeking to furnish information as to why he was not given earned leave encashment salary for four years from 2010 to 2014. The General Manager of Trichy Region, by his reply dated 22.08.2015, has informed the said Saminathan that due to financial constraints, earned leave encashment salary has not been disbursed. Challenging the said reply dated 22.08.2015, the said Saminathan has filed W.P.(MD)No.212 of 2016. This Court, by the order dated 28.01.2016, has set aside the said reply dated 22.08.2015 and directed the respondent therein to settle the earned leave salary in twelve monthly installments. Subsequently, the first respondent has issued a circular dated 09.01.2017, calling for the options with regard to the earned leave salary from the employees in respect of the years 2011-2014. Therefore, the petitioners made representations on 06.06.2018 to the respondents to settle the surrender leave salary. In the meantime, the first respondent, by the impugned circular dated 22.03.2018, has cancelled the earlier circular dated 09.01.2017, citing financial crisis. Aggrieved by the same, the petitioners have come out with the present Writ Petitions.

4. The learned counsel appearing for the respondents contended that the respondents are not having sufficient funds to run the buses itself and due to financial crunch, the respondents are unable to permit the petitioners to encash the earned leave and prayed for dismissal of the Writ Petitions.

5. Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the respondents and perused the materials available on record carefully.

6. From the materials on record, it is seen that as per the settlement entered into between the respondent Management and the employees Union under Section 12(3) of the Industrial Disputes Act, the petitioners are entitled to 30 days of earned leave in a year.



They are entitled to either encash 15 days earned leave every year or accumulate the 30 days leave and subsequently, encash the same. This position is not disputed by the respondents. On number of occasions, when the respondents did not pay the earned leave salary to its employees, they approached this Court by filing Writ Petitions. This Court, considering the issue involved, directed the respondents therein to pay the earned leave salary to its employees. The same was confirmed by the Division Bench of this Court. In view of the above facts and order of this Court in number of Writ Petitions and Writ Appeals, the petitioners are entitled to the relief as such sought for in the Writ Petitions. Earlier, this Court permitted the respondents to pay the leave salary in installments.

7. For the above reasons, the impugned order of the first respondent dated 22.03.2018 is set aside. The respondents are directed to settle the eligible earned leave salary to the petitioners in twelve (12) equal monthly installments to be paid on or before 10th day of every English Calendar month. The first installment is to be paid on or before 10th day of February, 2020.

8. In the result, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

Myr

+4 CC to Mr.A. RAHUL, Advocate (SR-98542 to 98545[F] dated 15/11/2019)

+4 CC to Mr.D.SIVARAMAN, Advocate (SR-98620 to 98623[F] dated 15/11/2019)

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