



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.22264 of 2019

R.Dharmalingam

... Petitioner

-Vs-

The Management of
The Tamil Nadu State Transport

Corporation (Kumbakonam) Limited,

Trichy Region, Represented by its General Manager,

Trichy.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to pay the petitioner's amount towards the encashment of 112 days of earned leave surrendered by the petitioner in the years from 2011 to 2018 before the petitioner's retirement either based on the petitioner's monthly wages of the respective months of surrender of those earned leaves, together with 18% interest p.a., from the respective due dates or based on the monthly wages payable on the month of the petitioner's retirement, together with 18% interest from the date of the petitioner's retirement, within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.P.Balasubramanian

ORDER

This Writ Petition is filed to direct the respondents to settle the petitioner's Earned Leave Wages for 112 days with reasonable rate of interest, within the time that may be stipulated by this Court.

2.According to the petitioner, he was appointed as Junior Tradesman on 27.05.1982 and retired from service on 30.09.2019, as TE Level-6, on attaining the age of superannuation. The respondent Management and 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 petitioner is entitled to 30 days



Earned Leave in a year. The petitioner can surrender 15 days of Earned Leave and accumulate his 15 days Earned Leave in a year. Therefore, the petitioner made representation to the respondent. However, the same has not been considered. Hence, the petitioner has come out with the present Writ Petition.

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3.The learned counsel appearing for the petitioner contended that earlier, the issue of payment of Earned Leave salary came up for consideration before this Court and this Court directed the respondent therein to pay the Earned Leave salary. The same was confirmed by the Division Bench of this Court. The leave salary was paid to the said employees. Therefore, the petitioner is entitled to the same benefit as per the settlement entered between the respondent Management and the Union and prayed for allowing the Writ Petition.

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

5.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent 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 Union under Section 12(3) of the Industrial Disputes Act, the petitioner is entitled to 30 days of earned leave in a year. He is 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 respondent. On number of occasions, when the respondent 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 respondent 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 petitioner is entitled to the relief as such sought for in the Writ Petition. Earlier, this Court permitted the respondents to pay the leave salary in installments.

7.Considering the above submissions of the learned counsel appearing for the petitioner and the respondent, the respondent is directed to settle the eligible earned leave salary to the petitioner in twelve (12) equal monthly installments to be paid on or before 10th day of every English Calendar month. The first



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installment is to be paid on or before 10th day of February, 2020.

8. In the result, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

Myr

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-95878[F] dated
04/11/2019)

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