



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.23333 of 2019

1.S.Velayutham

2.A.Thangaraj

3.M.Sundaram

4.G.Somasundaram

... Petitioners

-Vs-

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

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

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to settle the petitioners' benefit of enhancement of earned leave surrendered by them before the third respondent from the year 2010 to till the date of retirement of the petitioner with interest at 18% as per the 1998 Wage Settlement Effect under Section 12(3) of ID Act, 1947.

For Petitioners : Mr.N.Sudhagar Nagaraj

For R1 : Mr.S.Dhayalan,
Government Advocate.

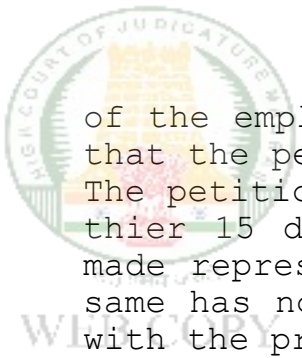
For R2 : Mr.P.Balasubramanian

For R3 : Mr.A.Swaminathan

ORDER

This Writ Petition is filed to direct the respondent to settle the petitioners' Earned Leave Wages with reasonable rate of interest, within the time that may be stipulated by this Court.

2.According to the petitioners, they were appointed in the respondents 2 and 3 Corporation on various dates and retired from service, on attaining the age of superannuation. The respondents 2 and 3 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 petitioners are entitled to 30 days Earned Leave in a year. The petitioners can surrender 15 days of Earned Leave and accumulate thier 15 days Earned Leave in a year. Therefore, the petitioners made representation on 12.11.2018 to the respondents. However, the same has not been considered. Hence, the petitioners have come out with the present Writ Petition.

3.The learned counsel appearing for the petitioners 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 petitioners are entitled to the same benefit as per the settlement entered between the respondent 2 and 3 Management and the Union and prayed for allowing the Writ Petition.

4.The learned counsel appearing for the third respondent contended that the third respondent is not having sufficient funds to run the buses itself and due to financial crunch, the third 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 Government Advocate appearing for the first respondent, the learned counsel appearing for the second respondent and the learned counsel appearing for the third 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 respondents 2 and 3 Management and the 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 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 petitioners are 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 submission of the learned counsel appearing for the third respondent, the respondents are directed to settle the eligible earned leave salary to the petitioners in twelve (12) equal



English Calendar month. The first installment is to be paid on or before 10th day of February, 2020.

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

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

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

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-96534[F] dated 06/11/2019)

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-96444[F] dated 06/11/2019)

+1 CC to M/s.SPL GP (SR-96660[F] dated 07/11/2019)

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06.11.2019

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