



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.22983 of 2019

A.Jeyachandran

... Petitioner

-Vs-

The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region, Maruthupathi, Karaikudi,
Sivagangai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to settle the petitioner's Earned Leave Wages for 158 days with reasonable rate of interest, within the time that may be stipulated by this Court.

For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.D.Sivaraman

ORDER

This Writ Petition is filed to direct the respondent to settle the petitioner's Earned Leave Wages for 158 days with reasonable rate of interest, within the time that may be stipulated by this Court.

2.Mr.D.Sivaraman, learned counsel takes notice on behalf of the respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, he was appointed as Electrician on 01.05.1983 and retired from service on 31.05.2018 as Assistant Engineer, 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 and the petitioner can surrender 15 days of Earned Leave in a year and accumulate his 15 days Earned Leave in a year.



Therefore, the petitioner made several representations in this regard, lastly, on 28.09.2019 to the respondent. However, the same has not been considered. Hence, the petitioner has come out with the present Writ Petition.

4.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 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.

5.Mr.D.Sivaraman, 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.

6.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent and perused the materials available on record carefully.

7.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 leave every year or accumulate the 30 days leave in a year 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 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 respondent to pay the leave salary in installments.

8.Considering the submission of the learned counsel appearing for 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 installment is to be paid on or before 10th day of January, 2020.



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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

+1 CC to M/s.D.SIVARAMAN, Advocate SR-95264.

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31.10.2019

Myr

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