



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) No.24911 of 2019

WEB COPY

1.R.S.Thiyagarajan
2.C.Dhanabal
3.K.Ganesan
4.M.Thilak
5.R.Sembaraj
6.P.Andavar

... 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) Ltd.,
Periyamilaguparai
Trichy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to settle the petitioners benefit of enhancement of earned leave surrendered by them before the 2nd respondent from the year 2010 to till the date of retirement of the petitioners with interest at 18% as per 1998 Wage Settlement Effect under Section 12(3) of ID Act, 1947.

For Petitioners : Mr.N.Sudhagar Nagaraj
For R2 : Mr.D.Sivaraman

ORDER

This writ petition is filed for a direction to the respondents to settle petitioners' surrender leave salary from the year 2010 to till date together with interest at the rate of 18% per annum as per 1998 Wage Settlement Effect under Section 12(3) of ID Act, 1947.

2.Heard Mr.N.Sudhagar Nagaraj, learned counsel appearing for the petitioners and Mr.D.Sivaraman learned counsel appearing for the second respondent.



3. According to the petitioners, they joined in the 2nd respondent Corporation on various dates and they were allowed to retire from the 2nd respondent Corporation on various designation on various dates. They have been settled earned leave for the period from 2010 to 2018 by the respondents Corporation. They have not received the surrender of earned leave salary from 2010 till the date of retirement. The respondents 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 and the petitioners can surrender 15 days of Earned Leave in a year. The petitioners can accumulate 15 days Earned Leave in a year. When the petitioners requested the respondents for encashment of Earned Leave, the respondent expressed their inability to pay Earned Leave salary due to financial crunch. Subsequently, the respondents have paid only part of the leave salary i.e, for 240 days and failed to pay the leave salary for the remaining period. The petitioners are entitled to get Earned Leave salary for the remaining period. Earlier, the issue of payment of Earned Leave salary came up for consideration before this Court and this Court directed the respondents 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.

4. The learned counsel appearing for the petitioners contended that the petitioners are 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 second 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. 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 petitioners are entitled to 30 days of earned leave in a year. The petitioners are entitled to either encash 15 days leave every year or accumulate 30 days leave in a year 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 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 same benefit as per the settlement entered between the respondent Management and the Union and prayed for allowing the writ petition. Earlier, this Court



permitted the respondents to pay the leave salary in instalments.

7. Considering the submission of the learned counsel appearing for the respondents, the respondent management is directed to settle the balance eligible earned leave salary to the petitioners in twelve (12) equal monthly instalments to be paid on or before 10th day of every English Calendar month. The first instalment is to be paid on or before 10th day of March, 2020.

8. In the result, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

Sub Assistant Registrar (CS)

Msa

TO

1. The Secretary to Government,
Government of Tamil Nadu
Transport Department, Secretariat,
Fort St. George,
Chennai 600 009

+1 CC to M/s. N. SUDHAGAR NAGARAJ, Advocate (SR-101354[F] dated 26/11/2019)

+1 CC to M/s. D. SIVARAMAN, Advocate (SR-101593[F] dated 26/11/2019)

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