



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

WEB COPY

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.10591 of 2017

Sattanathan Mohanraj

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Chairman Cum
Secretary to Government,
Transport Department,
Fort St. George, Secretariat,
Chennai-9.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli Limited),
No.2, Trivandrum Road,
Vannarapet, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to pay the benefits of encashment of unearned leave on private affairs to the petitioner as per the Government Letter No.37568/BPE/2006, dated 28.01.2008, issued by the Secretary to Government, Finance (BPE) Department, within the time stipulated by this Court.

For Petitioner : Mr.S.Veeranasamy

For R1 : Mr.V.R.Shanmuganathan,
Special Government Pleader.

For R2 : Mr.K.Sathiya Singh

ORDER

Heard Mr.S.Veeranasamy, learned counsel appearing on behalf of the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing on behalf of the first respondent and Mr.K.Sathiya Singh, learned counsel appearing on behalf of the second respondent.



2.This Writ Petition is filed for a direction to direct the respondents to pay the benefits of encashment of unearned leave on private affairs to the petitioner, as per the Government Letter No.37568/BPE/2006, dated 28.01.2008, issued by the Secretary to Government, Finance (BPE) Department.

3.According to the petitioner, he joined the service of the second respondent Transport Corporation on 02.12.1974 and retired from service on 31.03.2010, on attaining the age of superannuation, while working as a Managing Director. According to the petitioner, he is entitled for the benefit given in G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996, wherein the State Government ordered that at the time of retirement, 50% of the leave on private affairs, standing to the credit of the employees upto a maximum of 90 days, be extended for full leave salary, including dearness and other allowances, normally admissible, while going on leave during service be allowed for the entire period of earned leave encashment. The State Government issued a letter bearing No.37568/BPE/2006, dated 28.01.2008, extending the benefit of the scheme of encashment of unearned leave on private affairs ordered in G.O.Ms.No.488, dated 12.08.1996, to the state Public Sector Undertakings / Statutory Boards, who are getting Government scale of pay, but not to the employees, who are governed by the periodic wage settlement under Industrial Disputes Act, subject to the condition that the concerned Board / Public Sector Undertakings should not seek financial aid from the Government for this purpose. The second respondent passed a resolution, dated 25.03.2010, to implement the scheme. The petitioner was not paid the said benefits. Therefore, he has sent a representation, dated 22.05.2013 to the first respondent, claiming the said benefit. However, no order was passed thereon. Hence, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing on behalf of the second respondent submitted that the petitioner is not entitled for the benefit, as per G.O.Ms.No.488, dated 12.08.1996, and the similarly placed persons filed W.A.(MD)No.939 to 944 of 2017 and the Writ Appeals were dismissed and the Division Bench of this Court held that as per the rules, they are not entitled for the relief sought for and prayed for dismissal of the Writ Petition.

5.Considering the rival contentions made by the learned counsel for the petitioner and the respondents, without deciding the issues on merits, this Court directs the petitioner to send a fresh representation to the second respondent, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of such representation, the second respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of eight (8) weeks thereafter.



6. With the above direction, this Writ Petition stands disposed of. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar (CS)

Myr

To

1. The Chairman Cum Secretary to Government,
State of Tamil Nadu,
Transport Department,
Fort St. George, Secretariat,
Chennai-9.

2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli Limited),
No.2, Trivandrum Road,
Vannarapet, Tirunelveli.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-88080[F] dated
20/09/2019)

W.P. (MD) No.10591 of 2017
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JMN(03.10.2019) 3P : 4C