



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.1228 of 2017

WEB COPY

J.Mohammed Ali Jinna

... Petitioner

-Vs-

1.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Ref.Th.Aa.Po.Ka/Karai/Sa Pa Pi / 472, dated 18.06.2016, quash the same and consequently, directing the respondents to settle the petitioner's earned leave surrender salary of Rs.1,07,632/- to the petitioner for 75 days from 2011, 2012, 2013, 2014 and 2015 together with interest at the rate of 18% per annum payable from the date of retirement to till the date of actual payment.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.D.Sivaraman

ORDER

The order of the second respondent dated 18.06.2016, is sought to be quashed in the Writ Petition and further direction is sought for to direct the respondents to settle the petitioner's earned leave surrender salary of Rs.1,07,632/- to the petitioner for 75 days from 2011, 2012, 2013, 2014 and 2015 together with interest at the rate of 18% per annum payable from the date of retirement to till the date of actual payment.

2.According to the petitioner, he was appointed as Junior Assistant on 15.01.1987 and retired from service on 31.05.2015 as Superintendent, on attaining the age of superannuation. The respondent Management and employees Union entered into settlement under Section 12(3) of the Industrial Disputes Act relating to the



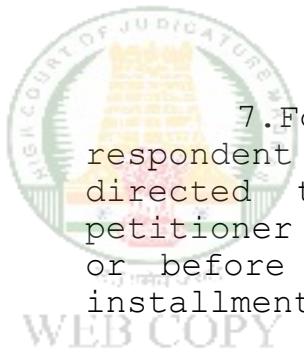
service condition of the employees' of respondent Corporation. One of the clauses is that the petitioners are entitled to 30 days Earned Leave in a year. The petitioners can surrender 15 days of Earned Leave and accumulate their 15 days Earned Leave in a year.

3.The learned counsel appearing for the petitioner contended that one Saminathan, Special Grade Assistant of Trichy Region of the first respondent Corporation has submitted a representation under RTI Act to the Public Information Officer, seeking to furnish information as to why he was not given earned leave encashment salary for four years from 2010 to 2014. The General Manager of Trichy Region, by his reply dated 22.08.2015, has informed the said Saminathan that due to financial constraints, earned leave encashment salary has not been disbursed. Challenging the said reply dated 22.08.2015, the said Saminathan has filed W.P.(MD)No.212 of 2016. This Court, by the order dated 28.01.2016, has set aside the said reply dated 22.08.2015 and directed the respondent therein to settle the earned leave salary in twelve monthly installments. Therefore, the petitioner made representation on 11.05.2016 to the respondents under RTI Act. However, the second respondent has issued the impugned order dated 18.06.2016, citing financial crisis. Aggrieved by the same, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the respondents contended that the respondents are not having sufficient funds to run the buses itself and due to financial crunch, the respondents are 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 respondents 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 employees 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 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 respondents 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. For the above reasons, the impugned order of the second respondent dated 18.06.2016, is set aside. The respondents are 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 February, 2020.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Myr

+1 CC to Mr.A. RAHUL, Advocate (SR-98547[F] dated 15/11/2019)
+1 CC to Mr.D.SIVARAMAN, Advocate (SR-98625[F] dated 15/11/2019)

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