

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.09.2020

PRONOUNCED ON : 28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.10773, 10102, 10752 & 10771 of 2020

A.Devarajan Petitioner in WP.No.10773 of 2020
M.Krishnamoorthy Petitioner in WP.No.10102 of 2020
J.Ramsing Petitioner in WP.No.10752 of 2020
S.Kumaresan Petitioner in WP.No.10771 of 2020

Vs.

1. The Managing Director,
State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai-600 002 ..Respondent in WP.Nos.10773,
10771, 10752 of 2020

1.The Government of Tamil Nadu,
rep. by the Secretary,
Transport Department,
Secretariat,
St George Fort, Chennai-600 009

2.The Managing Director,
Tamil Nadu State Transport
Corporation(Salem) Limited,
No.12, Ramakrishnan Road, Salem-636 007.

3.The General Manager,
Tamil Nadu State Transport
Corporation(Salem) Limited,
Dharmapuri Region, Bharathipuram,
Dharmapuri-636 705

4.The Administrator,
Tamil Nadu State Transport Corporation
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002

...Respondents in
WP.No.10102 of 2020

Petitions filed under Article 226 of The Constitution of
India praying for

(i) to issue a Writ of Mandamus to direct the respondent to settle terminal benefits of the petitioner for a sum of Rs.15,00,000/- towards Gratuity, a sum of Rs.7,50,000/- towards the commutation amount, a sum of Rs.4,16,000/- towards surrender of Leave Salary and a sum of Rs.4,500/- towards the refund amount of Erode Engineering College and Perundurai Medical College and altogether a sum of Rs.26,70,500/- with 6% interest by considering the representation of the petitioner dated 08.07.2020 (prayer in WP.No.10773 of 2020)

(ii) to issue a Writ of Mandamus to direct the respondents to settle the petitioner's retirement benefits including Provident Fund, Gratuity, EL surrender, SWF, DA arrears and Pension Arrears with interest payable from the date of retirement based on the petitioner's representation dated 01.07.2020 (prayer in WP.No.10102 of 2020).

(iii) to issue a Writ of Mandamus to direct the respondent to settle terminal benefits payable to the petitioner for a sum of Rs.15,00,000/- towards Gratuity, a sum of Rs.7,50,000/- towards Provident Fund, a sum of Rs.9,50,000/- towards Commutation, Rs.30,000/- towards Social Security Scheme, Rs.4,500/- towards EEC and EMC refund amount and Rs.5,75,000/- towards surrender of leave salary and altogether a total sum of Rs.38,09,500/- with 6% interest by considering the representation of the petitioner dated 28.05.2020 (prayer in WP.No.10771 of 2020).

(iv) to issue a Writ of Mandamus to direct the respondent to settle the terminal benefits of the petitioner, a sum of Rs.5,71,887/- towards Provident Fund, a sum of Rs.7,07,265/- towards Gratuity, a sum of Rs.2,20,000/- towards surrender of Leave Salary and a sum of Rs.4,500/- towards the refund amount of Erode Engineering College and Perundurai Medical College and altogether totalling to a sum of Rs.15,03,652/- with 6% interest by considering the representation of the petitioner dated 06.07.2020 (prayer in WP.No.10752 of 2020).

For Petitioners .. Mr.D.Soundar Raj
For Respondents .. Mr.K.Kathiresan, SC

COMMON ORDER

In all these Writ Petitions, the petitioners were the employees of the respondent/ Transport Corporation and after serving for number of years, they had retired from service on various dates. Since their retirement benefits have not been settled despite lapse of considerable time after their retirement, these Writ Petitions have been filed seeking a direction to the respondent Transport Corporation to settle their retiral benefits as admissible and payable to them with interest payable from the date of the retirement benefits became due. The Writ Petitions were in fact, heard and adjourned on several occasions.

2. When the matters are taken up for consideration, it transpires that the respondent Corporation has been going through huge financial constraints for the past few years and as a result of which, the Corporation has been unable to settle the retiral benefits due and payable to the retired employees.

3. In order to strike a balance between the interest of the employees and the employer and also taking note of the inability of the Corporation to pay the entire retirement benefits due to the respective employees upfront, this Court has passed several orders, directing the respondent Corporation to pay the retirement benefits in 12 equal monthly installments with 6% interest per annum in scores of Writ Petitions. These orders were passed in line with the operative portion of the observation by a Division Bench of this Court in WA.(MD) Nos.383 to 457 of 2015 dated 12.06.2015, on the basis of a submission made by the learned Additional Advocate General representing the Corporation. The conclusion of the Division Bench in the above batch of Writ Appeals is extracted below:

'The learned Additional Advocate General submits that he has obtained written instructions vide Letter No.7945/E/2015-2 dated 11.06.2015 that the terminal benefits of the appellants would be settled through twelve equal monthly installments, carrying interest of 6% p.a.

2. The said statement is thus taken on record and the respondents will be bound by the same. We have to keep in mind the judicial pronouncement of the Hon'ble Supreme Court in D.D.TEWARI (D) THR. LRS. Vs. UTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS (2014 (9) SCALE-78), wherein it is held that in case of any delay in making the payment of the installments, the interest payable would become 18% p.a., for the delayed period apart from any other remedy which may be available to the appellants for non-compliance of undertaking given to this Court''.

3.The installments to be paid from July 2015 and each installments should be paid on or before 7th of each month.'

4. Following the directions of the Hon'ble Division Bench, several Writ Petitions have been disposed of in the past directing the Corporation to pay the retirement benefits in 12 equal monthly installments. Such directions have been repeatedly issued by this Court and those directions have

apparently been complied with, by the Corporation. In the said circumstances, these Writ Petitions are also disposed of on the same lines. In fact, the Managing Director of the respondent Corporation appeared before this Court in Video Conferencing on the earlier date of hearing and stated that if such direction is issued, the same would be complied with, earnestly.

5. In the above circumstances, all the Writ Petitions are disposed of, by directing the respondent Corporation to settle all the retirement benefits due and payable to these employees by 12 equated monthly installments carrying 6% interest from the date the benefits became due and payable and till the date of settlement of the entire dues. The Corporation is directed to commence the payment to these Writ Petitioners from November 2020 and ensure that monthly installment shall be paid on or before 10th of every succeeding month thereafter. The payments shall be made every month on or before the stipulated date with interest as indicted above.

The Writ Petitions are ordered accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai-600 002

2.The Government of Tamil Nadu,
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3.The Managing Director,
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Dharmapuri-636 705

5.The Administrator,
Tamil Nadu State Transport Corporation
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002

+1cc to Mr.D.Soundar Raj, Advocate, S.R.No.34998, 34997, 34996
+1cc to M/s.M.Selvam, Advocate, S.R.No.35072
+1cc to M/s.D.Raghu, Advocate, S.R.No.34913
+1cc to M/s.K.Karthiresan, Advocate, S.R.No.34912, 34911, 34910

Pre delivery common order in
W.P.No.10773, 10102, 10752 & 10771 of 2020

LN(CO)
RV(30/11/2020)



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