



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD) No.3616 of 2020

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S.Gopalan

... Petitioner

/vs./

1.The Management of Tamilnadu

State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
rep., by its General Manager,
Karaikudi.

2.The Administrator,

Tamil Nadu State Transport Employees'
Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai-2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the first respondent to pay the petitioner the benefit of encashment for the earned leaves in his leave credit, together with interest at the rate of 18% per annum and also interest at the rate of 18% per annum for the period of delay from 01.11.2017 to 18.02.2018 in paying the EPF Employee's Contribution and for the period of delay from 01.11.2017 to 11.01.2018 in paying gratuity and further directing the respondents to pay him interest at the rate of 18% per annum for the period of delay from 01.11.2017 to 16.01.2018 in paying pension commutation, within a time frame as may be fixed by this Court and without affecting the petitioner's right to claim balance amounts towards those benefits.

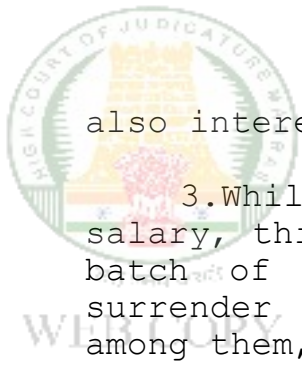
For Petitioner
For Respondents

: Mr.S.Arunachalam
: Mr.P.Balasubramanian
Standing Counsel (for R1)
Mr.A.Swaminathan
Standing Counsel (for R2)

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner seeks for consolidated relief by directing the first respondent to pay the benefit of encashment for earned leave salary, which is lying in his credit, together with interest and



also interest on the belated payment of the retirement benefits.

3.While considering the request for payment of surrender leave salary, this Court had been consistently passing several orders in a batch of writ petitions directing the respondents to pay the surrender leave salary, in which, W.P(MD).No.25999 of 2019 is one among them, which order reads as follow:

'By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

Since the petitioner who is the retired employee of the Transport Corporation, claims to have not been paid with the surrender leave salary of 90 days for the period from 2013 to 2018, the present writ petition has been filed seeking for direction in that regard.

3.The petitioner would submit that he has already made a representation dated 30.09.2019 in this regard, which is said to be pending. If the said representation is directed to be disposed of within stipulated time, the ends of justice could be secured.

4.Whenever a representation is made to a statutory authority to redress the claim of the employee, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. Such an inaction would amount to dereliction of duties and thereby this Court would be justified in invoking its extraordinary powers under Article 226 of Constitution of India and thereby direct such authority to consider the representation within the stipulated time.

5.An identical issue came up for consideration before the Division Bench of this Court in W.A(MD) No.210 of 2019 and the Hon'ble Division Bench by judgment dated 04.09.2019 had upheld the view of the learned Single Judge against which the writ appeal came to be filed and also rejected the Corporation plea that the employee had not claimed the encashment of the surrender leave within the stipulated time. The relevant portion of the said order reads as follows:-

'2. This appeal is filed by the Tamil Nadu State Transport Corporation, Kumbakonam



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4.While doing so, the Writ Court referred to an earlier order in the case of A.Sundararajan Vs., Tamil Nadu State of Transport Corporation (Kumbakonam Limited) [W.P(MD).No.24245 of 2016 etc batch], wherein similar relief sought for has been granted and the writ petitions were allowed and the appellants Transport Corporation was directed to implement the same. Thus in our considered view, the learned Single Judge has rightly gone into the factual position and took note of stand of the appellants corporation as to why earlier they did not permit surrender and allowed the writ petition. Therefore, we find that the appellants have not made out any ground to interfere with the order passed by the learned Single Judge.'

6.In the light of the above, this Court is of the view that the petitioner would be entitled to claim salary for the surrendered leave.

7.For all the forgoing reasons, although the petitioner has made a representation dated 19.10.2019, the petitioner is directed to make a fresh representation, enclosing a copy of this order, seeking for settlement of his surrender leave salary and on receipt of the such representation, the respondents herein shall consider the same and disburse the eligible leave salary through four equated monthly installments in the light of the aforesaid Division Bench Judgment. The respondents shall ensure that the first installment is disbursed at least within a period of four weeks from the date of receipt of fresh representation along with this copy of this order.

8.With the above directions, this Writ Petition is allowed. No costs.

4.In the present case, the petitioner claims that his earned leave has not been surrendered and has been accumulated in his accounts. In the light of the above decision taken by this Court, the petitioner will be entitled for the earned leave salary, which is lying on his account. Accordingly, the petitioner is directed to make a fresh representation, enclosing a copy of this order, seeking for settlement of his surrender leave salary and on receipt of the such representation, the respondents herein shall consider the same and disburse the eligible leave salary through four equated monthly



installments in the light of the aforesaid Division Bench Judgment. The respondents shall ensure that the first installment is disbursed at least within a period of four weeks from the date of receipt of fresh representation along with this copy of this order.

5. Insofar as the request for interest on the belated payment of the retirement benefits is concerned, this Court has passed the orders in a batch of writ petitions, in which W.P(MD).No.25932 of 2019 is one among them, which order reads as follow:

'By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner's retirement benefits were settled belatedly on 22.09.2019 and in view of such belated settlement, the present writ petition has been filed seeking for interest on the belated payment of the terminal benefits.

3. It is brought to the notice of this Court that in identical cases, a batch of writ petitions were entertained by this Court and directions have been issued to the respondents to pay interest, at the rate of 6% per annum on the belated payment of the terminal benefits. This Court does not intend to deviate from such orders passed in similar cases.

4. The learned Standing Counsel appearing for the respondents would submit that in view of the financial burden cast on the respondent Corporation, they may be permitted to pay the interest on the belated payment in liberal monthly installments.

5. I am not in agreement with the said representation made. There was already a duty cast on the respondent Corporation to pay the terminal benefits on the date of retirement itself and the very fact that the belated disbursement of retirement benefit had already put the retired employee to serious prejudice, entertaining the present request for disbursement of the interest on the belated payment in installments, could cause further prejudice to the retired employee.

6. In the light of the above observations, there shall be a direction to the respondent Corporation to pay the penal interest at the rate of 6% per annum on the belated payment of the retirement benefits for the period from the date of the retirement, till the date of actual disbursement, as expeditiously as possible



and in any event, within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No costs. '

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6. In the light of the above decisions taken by this Court as well as observations made in this order, the first respondent is directed to pay the penal interest at the rate of 6% per annum on the belated payment of the retirement benefits for the period from the date of the retirement, till the date of actual disbursement, as expeditiously as possible and in any event, within a period of three months from the date of receipt of a copy of this order.

7. In view of the above, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

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Sub Assistant Registrar(CS)

Rmk

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-7855[F] dated 24/02/2020)

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