



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD) No.5045 of 2020

I.Francis Xavier

... Petitioner

/vs./

The Management of
Tamil Nadu State Transport Corporation(Kumbakonam) Ltd.,
Trichy Region,
Represented by its General Manager,
Trichy

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay the petitioner's amount towards the encashment of 63.5 days of earned leave surrender by him in the years from 2010 to 2018 before his retirement either based on his monthly wages of the respective months of surrender of those earned leaves together with 18% interest p.a from the respective due dates or based on the monthly wages payable on the month of his retirement together with 18% interest from the date of his retirement, within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.P.Balasubramanian
Standing Counsel.

ORDER

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

2.Since the petitioner who is the retired employee of the Transport Corporation, claims to have not been paid with the surrender leave salary of 63.5 days in respect of the years 2010 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
<https://hcservices.ecourts.gov.in/hcservices/>



representation dated 15.10.2019 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 respondent 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 Division. The respondent filed W.P(MD).No.2449 of 2018 praying for a Writ of Certiorarified Mandamus to quash the order dated 21.12.2017 and direct the appellants to settle the petitioner's surrender leave salary. The appellant Corporation resisted the claim by contending that even though as per the settlement entered into under Section 12(3) of the Industrial Dispute Act, the employee is entitled for surrendering and encashing 15 days in one year or 30 days in two years, the same has not been done by the writ petitioner during his service during 2011-2014 and after superannuation only in the year 2016, he has made a claim of surrender of earn leave, based on the circular issued by the appellant Corporation, dated 09.01.2017. Further, it is submitted that the circular is not meant for enabling the retired employees to renew their claim of surrendering their earned leave of 15 days in a year during the service i.e., between 2011-2014 and it is applicable only for existing employees. Therefore, it is submitted that the respondent/writ petitioner cannot lay his claim based upon the circular, dated 09.01.2017.

<https://hcservices.ecourts.gov.in/hcservices> 3. The learned counsel appearing for the



receipt of fresh representation along with this copy of this order.

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

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

The General Manager
Tamil Nadu State Transport Corporation(Kumbakonam) Ltd.,
Trichy Region
Trichy

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-10818[F] dated
10/03/2020)

MSA

TE : 18/03/2020 : 4P/3C

Order made in
W.P. (MD) No.5045 of 2020
Dated:10.03.2020
(2/2)