



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11597 of 2020

M.Sasi

...Petitioner

-Vs-

1.The State Express Transport Corporation
(Tamil Nadu) Limited,
Represented by its Managing Director,
Pallavan Salai, Chennai-02.

2.The General Manager,
The State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai, Chennai-02.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-2.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to settle the terminal benefits to the petitioner including Gratuity, balance amount in Provident Fund, Earned Leave Salary, Social Security Scheme amount, Refund of IRT amount, Postretirement benefit scheme amount refund and difference in Dearness Allowance on monthly pension as revised from time to time together with interest at the rate of 18% per annum payable from the date of the petitioner's retirement from the service of the first respondent corporation to till date on which the above benefits are settled to the petitioner.

For Petitioner : Mr.C.K.Chandrasekar,
For Mr.A.Rahul

For Respondents : Mr.R.Rajamohan,
Standing Counsel.

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to settle the terminal benefits to the



petitioner including Gratuity, balance amount in Provident Fund, Earned Leave Salary, Social Security Scheme amount, Refund of IRT amount, Postretirement benefit scheme amount refund and difference in Dearness Allowance on monthly pension as revised from time to time together with interest at the rate of 18% per annum payable from the date of the petitioner's retirement from the service of the first respondent corporation to till date on which the above benefits are settled to the petitioner.

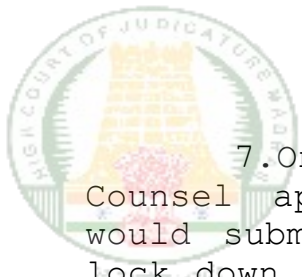
2.Heard Mr.C.K.Chandrasekar, learned counsel appearing for the petitioner and Mr.R.Rajamohan, learned Standing Counsel, who takes notice on behalf of the respondents.

3.With the consent of the learned counsel on both sides, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself.

4.The petitioner was serving as a Driver at the respondent Corporation for several years and after rendering unblemished service for more than 30 years, he retired on superannuation on 31.05.2019. Though he retired on 31.05.2019, for the past more than one year, except some of the terminal benefits, majority of them have not been settled.

5.In this regard, the learned counsel appearing for the petitioner has pointed out that, under 6 heads, like Gratuity, Provident Fund, Terminal Leave Salary, Refund of IRT amount, Social Security Scheme and Post retirement benefit fund, a sum of Rs.12,40,831/- (Rupees Twelve Lakhs Forty Thousand Eight Hundred and Thirty One Only) is due, payable to the petitioner. Out of this, atleast the first two heads namely, Gratuity and Provident Fund are the statutory dues, which are covered by the statute and the same cannot be withheld by any employer. In this regard, the law is well settled.

6.Therefore, the learned counsel appearing for the petitioner would submit that, despite these factors, though the petitioner had given a representation dated 11.08.2020, requesting the respondents to immediately settle the terminal benefits as indicated above, nothing was forthcoming and in the meanwhile, the petitioner being a retired employee is struggling to meet both ends. Therefore, the learned counsel appearing for the petitioner would submit that, atleast for the purpose of meet out the urgent loan to be settled to the tune of Rs.2,00,000/- (Rupees Two Lakhs Only) borrowed by the employee for performing the marriage of his daughter in December, 2019, some amount out of the total dues payable to the petitioner could be directed to be paid immediately and the remaining amount can be directed to be paid on regular installments, which can be decided by this Court.



7. On the other hand, Mr. R. Rajamohan, learned Standing Counsel appearing for the respondents / Transport Corporation would submit that due to Covid-19 situation and because of the lock down procedure adopted for the past more than 5 months, none of the vehicles belonging to the Transport Corporation were in operation. In the result, absolutely there had been no revenue for the Transport Corporation. Only for the past one week, normalcy got restored, insofar as plying intra-district transport service, thereby the respondent Transport Corporation started plying buses. It is very difficult to cope up with the requiring expenditure and also the payment of retirement benefits to various retired employees like the petitioner.

8. Anyhow, the learned Standing Counsel for the respondents submits that, entire retiral benefits, except some of them paid already to the petitioner, remaining amount, would be calculated and be settled in 12 equal monthly installments, which may be commenced after some time, as the Corporation is still struggling after Covid-19 situation.

9. I have heard the said submissions made by both the learned counsel appearing for the parties and perused the materials available on record.

10. Having regard to the same, this Court feels that, since the retiral benefits, which includes some statutory dues like Gratuity, Provident Fund, as already been pointed out by the learned counsel appearing for the petitioner, are the statutory dues, which cannot be withheld for longer period by the employer for the alleged reason of deficit of funds at the hands of the employer and also Covid-19 pandemic situation cannot be cited as a reason for denying the settlement of entire retiral benefits payable to the employee. In this case, since the employee retired long back prior to March 2020, i.e., as early as on 31.05.2019, such ground on Covid-19 taken by the respondents may not be justifiable.

11. Be that as it may, now the petitioner is in need of funds, in order to settle the loan borrowed by him to perform the marriage of his daughter, which was held some time in December, 2019. That apart several other commitments are there on the part of the petitioner to honour. Therefore, the plea that, at the earliest point of time, the terminal benefits can be directed to be paid, as has been claimed by the petitioner, would be appealing to this Court.

12. In view of the above and taking into account the factual matrix of this case and also considering the several orders having



been passed by this Court dealing with the similar situation, where, the employees like the petitioner had been struggling to get retirement benefits from the Transport Corporation, like the present respondents, this Court is inclined to pass the following order:-

WEB COPY

"that the respondents are hereby directed to consider the request of the petitioner dated 11.08.2020, accordingly, calculate the terminal benefits payable to the petitioner and out of the total dues payable to the petitioner, atleast 25% of the same shall immediately be calculated and settled to the petitioner, for which this Court fixes four weeks time. So far as the remaining retirement benefits is concerned, the same shall be paid in 12 equal monthly installments and the first installment shall be commenced from November, 2020, as the respondents have started to ply the vehicles since the normalcy has been restored after Covid-19 situation, in view of the lock down announced by the State Government has been relaxed to that extent."

13.It is made clear that merely because the respondents are paying dues of retirement benefits of the petitioner by installment basis, that would not preclude the petitioner from seeking interest for the belated payment and that right would always be there with the petitioner.

14.With these observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Managing Director,
State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai, Chennai-02.

2.The General Manager,
The State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai, Chennai-02.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-2.

+1 CC to Mr.R. RAJAMOHAN, Advocate (SR-16825[F] dated
15/09/2020)

Order made in
W.P. (MD)No.11597 of 2020
14.09.2020

ARK(CO)
KM (11.11.2020) 5P 5C