



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12267 of 2020

(Through Video conferencing)

R.Hariharasubramanian

...Petitioner

-Vs-

1.The Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
represented by its Managing Director,
Tirunelveli.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to forthwith disburse surrender leave salary of Rs.1,00,892/- for 120 days together with interest at the rate of 18% per annum from the date of retirement to till the date of disbursement within the time that may be stipulated by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.R.Rajamohan, standing counsel.

ORDER

The Prayer sought for in this writ petition is for a writ of Mandamus, directing the respondents to forthwith disburse surrender leave salary of Rs.1,00,892/- for 120 days together with interest at the rate of 18% per annum from the date of retirement to till the date of disbursement within the time that may be stipulated by this Court.

2.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3.The petitioner was working as Special Grade Assistant at the respondent Transport Corporation and after serving for long years, retired from service on superannuation on 31.10.2017. After retirement, though the retirement benefits payable to the petitioner was disbursed, the respondents have not paid the surrender leave salary payable to the petitioner from the year 2010 - 2016, which



accounted, according to the petitioner for more than Rs.1 lakh. Therefore, in order to get the same, the petitioner has given representation on 03.03.2020 and the said representation also since has not been considered, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that, similar issue has already been decided in number of cases, and he relied upon a recent order passed by this Court dated 06.07.2020 made in W.P.(MD) No.7325 of 2020 in the matter of **S.Sivam Vs. The management of Tamil Nadu State Transport Corporation and another**, where, he relied upon the following paragraphs:

"2. Heard Mr.A.Rahul, learned counsel appearing for the petitioner, who would submit that the petitioner is a retired employee of Respondent Transport Corporation and he would be entitled to surrender leave salary. He would further submit that having a number of settled decisions made by this Court in similar cases and with regard to the present case in hand, the learned Counsel pointed out that in WP.(MD)No.2449 of 2018 dated 02.04.2018, a similar issue was considered and the following order was passed :

"16. In the result, the writ petition is allowed and the petitioner shall be entitled to claim the leave salary surrender encashment benefit depending upon his eligibility for the relevant years and since the petitioner has already made such a request on 24.03.2018, the same shall be accepted and the amount equivalent to surrender of earned leave shall be disbursed to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs."

3.The learned Counsel appearing for the petitioner would also submit that the above said order was appealed before the Division Bench in W.A.No.210 of 2019, dated 04.09.2019, wherein, the same was confirmed. Therefore, the learned Counsel for the petitioner would further submit that since the issue has become final, the present issue of the petitioner herein is also covered by the decision of this Court, as confirmed by the Division Bench of this Court as stated supra.

4.Heard Mr.P.Balasubramanian, learned Standing Counsel appearing for the respondent, who would submit that there is a huge financial crisis due to Covid 19 pandemic and the respondent Corporation is struggling like anything and the public transport is also not



being run. When that being the position, neither strict time frame can be prescribed against the respondent employer for getting surrender leave salary to the petitioner nor to encourage the same. Therefore, taking into account the said situation, suitable orders may be passed.

5.I have considered the said submissions made by both sides.

6. In view of the order passed by this Court in W.P.(MD)No.2449 of 2019, dated 02.04.2018, as the same having been confirmed in W.A(MD)No.210 of 2019, dated 04.09.2019, the issue raised in this writ petition is also covered. Therefore, this Court is inclined to pass the following directions :

"1.the petitioner shall be entitled to claim the leave salary surrender encashment benefit depending upon his eligibility for the relevant years and since the petitioner has already made such a request on 18.11.2019, the same shall be accepted and the amount equivalent to surrender of earned leave shall be disbursed to the petitioner;

2. the time frame fixed to do the needful as indicated above shall be four months from the date of receipt of a copy of this order."

5.Therefore, the learned counsel appearing for the petitioner would submit that, the petitioner also since similarly placed, a direction can be issued to that effect to the respondents to pay the surrender leave salary for which the petitioner is entitled to within a time frame.

6.Heard the learned standing counsel appearing for the respondents, who would submit that, due to financial crisis not only to the petitioner, to several such employees, surrender leave salary could not be paid immediately. However, insofar as the petitioner is concerned, considering the request dated 03.03.2020, the entitlement of the surrender leave salary as well as the quantum of the same would be decided and accordingly, the same would be disbursed within a period of four months.

7.In view of the aforesaid factual position, the issue raised in this writ petition since no more res-integra as number of orders have been passed and the orders passed by the Writ Court having been confirmed by the Division Bench of this Court also, this Court is inclined to pass the following order:

"The respondents are hereby directed to consider the request of the petitioner dated 03.03.2020 and accordingly, decide regarding the entitlement and also



the quantum of amount payable to the petitioner by way of encashment of surrender leave salary for the year 2010 - 2016 and accordingly, pay the same to the petitioner, within a period of four months from the date of receipt of a copy of this order."

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8. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Arul

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.

To

The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli.

+1 CC to M/s R.Rajamohan ,Advocate,in SR.No.17759.

Order made in
W.P. (MD) No.12267 of 2020
22.09.2020

(CK) CO

AP(07/01/2021) 4P 3C