



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.12567 of 2020

SV.Subbiah

...Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye-Pass Road, Madurai-16

2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul. ...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to settle the surrender leave salary pending due unsettled for the years from 2009 to 2013 surrendered from the petitioner's leave credit for 15 days every year and also the Social Security Scheme Benefits along with interest at the rate of 18% p.a.

For Petitioner : Mr.S.Govindan
For Respondents : Mr.J.Senthilkumaraiah
Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the respondents to settle the surrender leave salary, pending due unsettled for the years from 2009 to 2013 surrendered from the petitioner's leave credit for 15 days every year and also the Social Security Scheme Benefits along with interest at the rate of 18% p.a.

2.Heard Mr.S.Govindan, learned counsel appearing for the petitioner and Mr.J.Senthilkumaraiah, learned Standing Counsel appearing for the respondents.

3.Though these kind of cases are filed, almost every day by number of employees of the Transport Corporations throughout the State, one peculiarity this Court noticed in this case is that, it is filed by none other than the former Managing Director of the respondent Transport Corporation. The petitioner, after having served as the Managing Director of the respondent Transport Corporation, retired from service, on superannuation, on 31.10.2015. Though his retiral benefits had been subsequently paid, the surrender leave salary, for which, the petitioner is entitled to, for the years from 2009 to 2013, the petitioner could not get the said amount. Therefore, it seems that, the petitioner had given a representation to the respondents on 24.08.2020 to allow the



surrender leave salary and disburse the same to the petitioner. However, the same was not immediately considered, and the petitioner has approached this Court.

4.First, on seeing the petition, this Court wanted to know whether the grievance of the petitioner is correct, because, he was working as a Managing Director of the respondent Transport Corporation and retired from service, even for whom also, these kind of issues are still pending with the respondent Transport Corporation. Accordingly, Mr.J.Senthilkumaraiah, learned Standing Counsel appearing for the respondent Transport Corporation, who took notice and wanted to get instructions during the last hearing, and, that is how, this matter is taken up for hearing today (28/09/2020).

5.Today, when the matter is taken up for hearing, the learned Standing Counsel appearing for the respondents would submit that, yes, the petitioner is the former Managing Director of the respondent Transport Corporation and he retired from service on superannuation, in the year 2015 and he would be eligible to claim surrender leave salary for the years from 2009 to 2013 and the said amount since has not been paid, he has made a request on 24.08.2020. Certainly, the request of the petitioner would be considered and the surrender leave salary payable to the petitioner would be paid by the respondent Transport Corporation within the time frame stipulated by this Court.

6.The representation, dated 24.08.2020 of the petitioner reads thus:

"From
SV.Subbiah,
Managing Director (Retired)
32, Thirumalaisampuram,
Dindigul.

To
The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Bye Pass Road, Madurai-16

Respected Sir,

Sub:SV.Subbiah, Retirement on 31.10.2015-
surrender leave salary and Social Security Scheme
Benefits-requested

I was retired from service on superannuation on 31.10.2015. But, i was not settled surrender leave salary from 2009 to 2013 and also the Social Security Scheme Benefits till date.



So, I request you to kindly sanction the surrender leave salary and Social Security Scheme Benefits immediately.

Thanking You,

Yours Faithfully,
Sd/-SV.Subbiah

WEB COPY

Copy to the General Manager, Tamil Nadu State Transport Corporation (Madurai) Ltd., Dindigul Region, Dindigul."

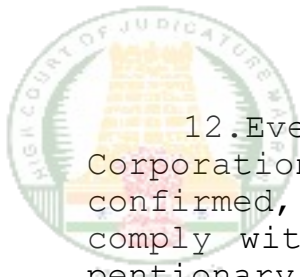
7. If we look at the representation, this is a peculiar representation, where, the former Managing Director of the respondent Transport Corporation made a request to the present Managing Director of the very same respondent Transport Corporation and when we asked about the reason for non-payment of surrender leave salary to the petitioner, the learned Standing Counsel would submit that, due to financial crisis, the said amount was not disbursed, as in the case of thousands of employees, who are also not paid such kind of surrender leave salary.

8.This Court considers it as a pathetic situation, not for the petitioner, but to the respondent Transport Corporation. The petitioner, who served as a Managing Director of the respondent Transport Corporation, had to wait for five long years to get surrender leave salary from his very own organization, where he served for long years. Even after 5 long years, he is not able to get such benefits, except or without approaching this Court by filing this writ petition.

9.This situation clearly demonstrates the position, where, for getting the statutory dues like retiral benefits, surrender leave salary... etc., each of the employees working in the Transport Corporations in the State of Tamil Nadu, in most of the occasions, have to approach this Court by filing writ petition after writ petition and in most of the cases, they had to go to the extent of filing contempt petitions.

10.Whenever contempt petition come against the respondent Transport Corporation, in majority of such contempt petitions it shows the finger only against the Managing Director concerned of the Transport Corporation.

11.When such kind of contempt petitions are coming for hearing, if the Court wants its order to be complied with, they i.e., the Transport Corporation would say that, they are financially struggling, invariably or in most of the circumstances, they claim that they prefer intra-Court Appeal against the order passed by the Writ Court.



12. Even after such intra-Court appeal filed by the Transport Corporation is dismissed and the order of the Writ Court is confirmed, still the Transport Corporation will seek further time to comply with that order paying the pay benefits, retiral benefits, pensionary benefits etc., to the employee.

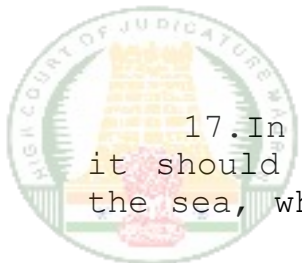
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13. This kind of pathetic situation has been continuing in the Transport Corporation, in the State, for several years and at times, large number of retired employees of the Transport Corporation would come to the street for agitation and only at that juncture, the Transport Corporations Management and the Government would come forward to give some solace, as an interim measure to subside the agitating mood of large number of employees and thereafter, they would conveniently forget the situation. Resultantly, these kind of pathetic situations have been prevailing continuously for years together and we people, do not know, still how many years or for how long period, these kind of situations will prevail in the financial position of the Transport Corporations.

14. This Court is also wondering to note that, when the private bus operators are plying buses, where, in most of the cases, even single or very few routes are being run by the private operators, still, they successfully run the transport business with considerable gain, however, when thousands of buses are being plied by these Transport Corporations throughout the State and time and again, Government also comes forward to give financial assistance to several crores of rupees to bail out the financial condition of these Transport Corporations, still, the pathetic situation of these Transport Corporations has not been improved.

15. These past history and the present situation would clearly disclose that, all is not well in the very administration and functioning of these Transport Corporations. Today, the petitioner is a former Managing Director, who has made a request to the present Managing Director for his service benefits. Tomorrow, the very same Managing Director, who is now in the position to decide the present request of the former Managing Director, would also become the former Managing Director and he would also be in a same position to seek for similar service benefits by making representation and thereafter, he would file writ petition before this Court and, because of this situation, very often, almost in every day, the Court's burden is being increased or enhanced manifoldly without any plausible reason.

16. Time and again, orders are passed by this Court and hundreds of thousands of orders issuing Mandamus are being passed by both the Madurai Bench of Madras High Court as well as the Principal Seat at Chennai, but still, the situation has not improved even an inch.



17. In this kind of pathetic situation, this Court feels that, it should not have any enduring effect forever, like the waves of the sea, which are immortal till this universe lies.

18. Therefore, the time has come to the Government as well as to the Transport Corporation to have self intrasppection as to how the financial situation of these Transport Corporations shall be improved and what kind of corrective measures as well as austerity measures to be taken to develop the financial status of these Transport Corporations, so that, these kind of pathetic situations shall not continue ever to prevail and at one day, in future, these Transport Corporations will breath freely and smoothly that, they do not have any financial constraints to meet out their expenses, which is controllable within their revenue. The revenue of these Transport Corporations should always be higher than the expenditure and to that effect, the administration of these Transport Corporations to be streamlined by the Government, for which, a policy decision can be taken by the State Government and if need be, a legislative measure also can be thought of.

19. These suggestions of this Court are being made only on the fond hope that, these poor employees of the Transport Corporations, not the petitioner, since he is the former Managing Director, shall not be driven to the Court of Law very often for getting each and every service benefits, for which, otherwise under Law, they are entitled to. This kind of situation should be avoided in a Welfare State and therefore, these observations, as suggestive measures, have been made by this Court to the Government as well as the Transport Corporations.

20. Now, let me come to the present issue, where, the learned Standing Counsel appearing for the respondent Transport Corporation would submit that, the request of petitioner dated 24.08.2020 would be considered and accordingly, the surrender leave salary and Social Security Scheme Benefits payable to the petitioner would be calculated and be disbursed within a period of three months.

21. Recording the said submission made by the learned Standing Counsel appearing for the respondent Transport Corporation, this Court is inclined to dispose of this writ petition with the following order:

"that the respondents shall pass necessary orders, by calculating the surrender leave salary and Social Security Scheme benefits payable to the petitioner by considering his request, dated 24.08.2020 and accordingly, disburse the said amount to the petitioner within a period of three months from the date of receipt of a copy of this order. "



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22. With the aforesaid directions and observations, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (ADII)

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Sub Assistant Registrar(CS)

Rmk

TO

1. The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye-Pass Road, Madurai-16
2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul

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AVS (CO)

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