

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8038 of 2021
(Heard through VC)

J. Ramsing

.. Petitioner

-vs-

M/s.State Express Transport Corporation,
Rep. By its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondent

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondent to settle salary for 35 days for the period from 21.10.2016 to 24.11.2016 amounting to Rs.38,298/- with 6% interest by considering the representations of the petitioner dated 14.12.2017, 03.05.2018 and 04.05.2020.

For Petitioner : Mr.D.Soundar Raj

For Respondent : Mr.K.Kathiresan

O R D E R

The petitioner has come forward with the above writ petition seeking a direction to the respondent to settle his salary for 35 days for the period from 21.10.2016 to 24.11.2016 amounting to Rs.38,298/- with 6% interest by considering his representations dated 14.12.2017, 03.05.2018 and 04.05.2020.

2. Mr.K.Kathiresan, learned counsel takes notice on behalf of the respondent.

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

4. According to the petitioner, while working as Driver in the respondent-Corporation, he availed leave from 21.10.2016 to 24.11.2016, for which, a disciplinary action was taken against him vide charge memo dated 06.12.2016 by the General Manager.

After giving explanation for having availed the leave to the General Manager, he issued a warning order dated 23.03.2017 treating the absent period from 21.10.2016 to 24.11.2016 as leave. A bill was also prepared by the respondent on 13.02.2020 claiming wages, but, the same was not paid. Hence, the petitioner has made a representations to the respondent dated 14.12.2017, 03.05.2018 and 04.05.2020 to settle the amount for the period, which was deducted in his leave credit. Till now, the respondent has not considered his representations. Hence, the petitioner is before this Court.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations are already pending with the respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondent herein to consider the representations of the petitioner dated 14.12.2017, 03.05.2018 and 04.05.2020, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 14.12.2017, 03.05.2018 and 04.05.2020 and this order, to the respondent forthwith;

v) The respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send

communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi
To

The Managing Director,
M/s.State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai - 600 002.

+1 CC to Mr.K. Kathiresan, Advocate sr 20248.
+1 CC to Mr.D. Sounthar, Advocate sr 20482.

W.P.No.8038 of 2021

KV(CO)
SP(12/07/2021)



WEB COPY