



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. [MD]No.6511 of 2021

K.Muniyandi

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (KMBU) Ltd.,
27, New Railway Station Road,
Kumbakoam - 612 001,
Thanjavur District.

2. The Financial Advisor,
Tamil Nadu State Transport Corpn., (KMBU) Ltd.,
27, New Railway Station Road,
Kumbakonam - 612 001, Thanjavur District.

3. The Administrator,
TNSTC Employees Pension Trust,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to settle the petitioner's ERPS (Employees Retirement Pension Scheme) amount for the period from 01.09.1992 to till the date on 29.02.2016 and surrender leave salary for 45 days in respect of the years 2011-2012, 2012-2013 & 2013-2014 together with interest at the rate of 6% per annum payable as per court direction, in one instalment to the petitioner according to the last drawn salary in the month of February 2016 to the petitioner as per the representation dated on 04.12.2020, within a stipulated time frame as fixed by this Court from the date of retirement to till the date of actual payment.

For Petitioner : Mr.K.Gokul

For Respondents 1&2 : Mr.P.Balasubramanian
Standing Counsel

For Respondent No.3 : Mr.A.Swaminathan



O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to settle the petitioner's surrender leave salary for 45 days in respect of the years 2011-2012, 2012-2013 & 2013-2014 together with interest at the rate of 6% per annum payable from the date of retirement to till the date of actual payment.

2. Heard Mr.K.Gokul, learned counsel appearing for the petitioner, Mr.P.Balasubramanian, learned Standing Counsel appearing for the respondents 1&2 and Mr.A.Swaminathan, for third respondent.

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

4. The grievance of the petitioner is that after his retirement, the respondents have not settled the surrender leave salary and therefore, he claims the disbursement of the same together with interest.

5. The learned counsel for the petitioner, as well as the learned Standing Counsel appearing for the respondents, submitted that the issue involved in the present writ petition is covered by various orders of this Court, including the order, dated 13.12.2019, passed in the case of **S.Alagesan Vs. The Managing Director, Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and another** in **W.P. (MD).No.26487 of 2019**. The relevant portion of the order reads as follows:

"4. 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 petition 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



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Transport Corporation (Kumbakonam Limited) [W.P(MD).No.24245 of 2016 etc batch], wherein similar relief sought for has been granted and the writ petitions were allowed and the appellants Transport Corporation was directed to implement the same. Thus in our considered view, the learned Single Judge has rightly gone into the factual position and took note of stand of the appellants corporation as to why earlier they did not permit surrender and allowed the writ petition. Therefore, we find that the appellants have not made out any ground to interfere with the order passed by the learned Single Judge.' 5. In the light of the above, this Court is of the view that the petitioner would be entitled to claim salary for the surrendered leave."

6. In view of the aforesaid decision being in favour of the petitioner, this Court is also of the view that the petitioner herein is entitled to succeed in the present writ petition.

7. At this juncture, Mr.P.Balasubramanian, learned Standing Counsel appearing for the respondent Corporation submitted that the Division Bench of this Court as well as the learned Single Judges of this Court in many cases have ordered for payment of earned leave salary, but have not granted interest and therefore, he submitted that the interest need not be paid for non-surrender of earned leave.

8. In all the decisions cited by the learned Standing Counsel, both the Division Bench, as well as the learned Single Judges, there is no discussion with regard to the non-entitlement of the interest. Since there is no dictum laid down in any of the decisions to the effect that the employees will not be entitled for interest on belated payment of earned leave, I am unable to accept these submissions made by the learned Standing Counsel.

9. Accordingly, there shall be a direction to the respondents herein to settle the surrender leave salary for 45 days in respect of the years 2011-2012, 2012-2013 & 2013-2014 together with interest at the rate of 6% per annum from the date of retirement till the date of actual disbursement. The respondents shall be entitled to disburse the surrender leave salary in six Equal Monthly Installments and the 1st Installment shall commence from 1st of April 2021.



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10. This writ petition stands allowed accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

1. The Managing Director,
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Thanjavur District.

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Chennai - 600 002.

+1 CC to Mr.K.GOKUL, Advocate (SR-13115[F] dated 23/03/2021)
+1 CC to Mr.P.BALASUBRAMANIAN, Advocate (SR-13422[F] dated
24/03/2021)

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23.03.2021

MR

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