



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.10553 of 2017

D.S.Vincent

... Petitioner

Vs.

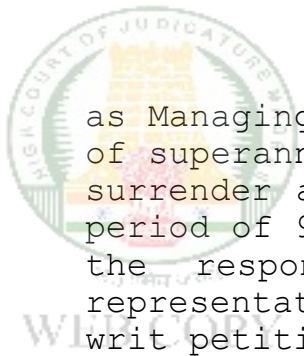
- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Transport Department & Chairman of Board of Directors of
State Transport Undertakings,
Fort St. George, Chennai - 9.
 - 2.The Management of Tamil Nadu State Transport
Corporation (Madurai) Limited,
represented by its Managing Director,
Madurai Division, Bye Pass Road,
Madurai - 625 016.
 - 3.The Financial Advisor & Chief Accounts Officer,
The Tamil Nadu State Transport Corporation (Madurai) Limited,
Madurai Division,
Bye Pass Road, Madurai - 625 016.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents to extend the benefit of surrender and encashment of unearned leave on private affairs for the period of 90 days to the petitioner and to pay monetary benefits with interest at the rate of 18% per annum payable from the date of his retirement to till the date of payment of the said monetary benefit based on the scheme of unearned leave on private affairs in accordance with G.O.Ms.No.488 Finance (Pension) Department dated 12.08.1996 and Government letter No.37568/BPE/2006, dated 28.01.2008 and Board resolution of the second respondent company bearing Resolution No.8, dated 25.03.2010.

For Petitioner	:	Mr.A.Rahul
For Respondents	:	Mr.J.Senthil Kumaraiah
		Standing Counsel
R2 & R3	:	M.Muthugeethaiyan SGP

O R D E R

The case of the petitioner is that the petitioner was appointed in the respondent Transport Corporation as Assistant Engineer (Trainee) and after periodical promotion, he was promoted



as Managing Director and retired from service on attaining the age of superannuation. However, the petitioner was not provided with the surrender and encashment of unearned leave on private affairs for a period of 90 days. Therefore, the petitioner made representations to the respondents on 12.12.2016 and on 18.12.2016. Since his representations were not considered, the petitioner has filed the writ petition.

2. The learned counsel for the petitioner submitted that this Court in a batch of writ petitions in W.P(MD)Nos.223 of 2016, etc., [**S.Venugopal Vs State of Tamil Nadu and Others, date 02.12.2016**] has allowed the writ petitions, filed seeking the very same relief as sought for in the writ petition and therefore, the learned counsel prayed for allowing the writ petition.

3. Per contra, the learned Standing Counsel appearing for the Transport Corporation submitted that the above order referred to by the learned Counsel for petitioner has been challenged before the Hon'ble Division Bench of this Court in W.A(MD)Nos.939 to 944 of 2017, etc., and the Hon'ble Division Bench of this Court by its judgment dated 27.03.2018 allowed the writ appeals by setting aside the order passed in the writ petitions and therefore, the writ petitioner is not entitled to get the relief as sought for in the writ petition and therefore, the learned Standing Counsel prayed for dismissing the writ petition.

4. Heard the learned Counsel appearing on either side and perused the materials placed on record.

5. It is seen from records that the Division Bench of this Court in the writ appeals filed against the order passed in **S.Venugopal's** case cited supra has allowed the writ appeals by setting aside the order passed by the learned single Judge. While being so, the petitioner cannot seek any relief citing the said order passed in the writ petitions as it has been set aside by the Division Bench. Therefore, the writ petition is liable to be dismissed.

6. In view of the above discussion, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Transport Department & Chairman of Board of Directors of
State Transport Undertakings,
Fort St. George, Chennai - 9.
 - 2.The Management of Tamil Nadu State Transport
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Madurai - 625 016.
 - 3.The Financial Advisor & Chief Accounts Officer,
The Tamil Nadu State Transport Corporation (Madurai) Limited,
Madurai Division,
Bye Pass Road, Madurai - 625 016.
- +1 CC to M/s.J.SENTHIL KUMARAI AH, Advocate (SR-11098[F] dated
15/03/2021)
- +1 CC to M/s.SPL GP (SR-11142[F] dated 15/03/2021)
- +1 CC to M/s.A.K.THANGAVELU, Advocate (SR-11577[F] dated 16/03/2021

W.P (MD) No.10553 of 2017
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KB(24.06.2021) 3P 7C