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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.2717 OF 2022

N.Kadirvel
S/o.Natesan

... Petitioner

.Vs.

The Management of Tamil Nadu State
Transport Corporation (Kovai) Ltd.,
Erode Region,
Rep. By its Managing Director,
Erode.

... Respondent

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to pay the petitioner the amount payable towards the encashment of 135 days of earned leaves, surrendered by him in the years before his retirement as admitted by the respondent, either based on his monthly wages of the respective months of surrender of those earned leaves, together with 18% interest p.a. from the respective due dates or based on the monthly wages payable on the month of his retirement, together with 18% interest from the date of his retirement, within a time frame as may be fixed by this Hon'ble Court and thus render justice.

For Petitioner : Mr.V.Ajoy Khose

For Respondent : Mr.A.Sundaravadanam

ORDER

This writ petition has been filed to issue a Writ of Mandamus, directing the respondent to pay the amount for encashment of Earned Leave, surrendered by the petitioner, with interest.



2. The case of the petitioner in brief:

The petitioner was appointed as Junior Assistant and while he retired from service on superannuation on 31.05.2019, he was Senior Superintendent. As per Section 12(3) of the Industrial Dispute Act, 1947, every workman can surrender 15 days of earned leaves, once in every calendar year and get encashment for the same. Before retirement, the petitioner surrendered Earned Leave for encashment. But the respondent did not pay the amount, citing financial crisis. Even after passing of two years from the date of retirement, the respondent has not come forward to pay the amount, despite they agreed under RTI Act that they are liable to pay the amount for encashment of 135 days Earned Leave, surrendered by the petitioner. In this regard, the petitioner made a representation dated 22.10.2021 to the respondent. However, it was not considered. Hence this writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner has sent representation dated 22.10.2021 through RPAD to pay the amount of encashment of Earned Leave, surrendered by the petitioner with interest. Hence, the respondent may be directed to consider the same and to pay the amount.

4. The learned counsel appearing for the respondent Corporation fairly submitted that due to financial crisis, the respondent has not paid the amount for encashment of Earned Leave, surrendered by the petitioner. He further submitted that, the petitioner is entitled for interest only at the rate of 4% p.a. for the belated payment.

5. In view of the above submissions and with the consent of both the parties, this court is inclined to pass orders.

6. Accordingly, it is ordered as follows.

i) The respondent is directed to pay the amount for encashment of Earned Leave, surrendered by the petitioner, with penal interest at the rate of 4% per annum, within a period of twelve weeks from the date of receipt of a copy of this order,

ii) It is also made clear that in default to pay the amount within the above said period, the respondent-Corporation shall have to pay the interest amount at the rate of 6% per annum to the petitioner.



7. With the above directions, the writ petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mst

To

The Managing Director,
The Tamil Nadu State Transport
Corporation (Kovai) Ltd.,
Erode Region, Erode.

+1cc to Mr.A.Sundaravadanam, Advocate, S.R.No.10963

W.P.NO.2717 OF 2022

RSV(CO)
PBS/08/03/2022