BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD).No.5781 of 2022

C.Arasappan ... Petitioner

vs.

1.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.

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

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondent to pay petitioner's surrender leave salary for 1765 days of Rs.4,37,238/- for the years 2011-2019 together with interest at the rate of 18% per annum from the date of retirement to till the date of disbursement within the time that may be stipulated by this Hon'ble Court.

For Petitioner : Mr. A.Rahul
For Respondents : Mr. D.Sivaraman

O R D E R

Seeking a direction to the respondents to settle petitioner's surrender leave salary of Rs.4,37,238/- for 176.5 days together with interest at the rate of 18% per annum payable from the date of his retirement to till the date of actual payment, the petitioner is before this Court with the present writ petition.

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

3.According to the petitioner, he retired from service on 31.12.2019 on attaining the age of superannuation. As on the date of retirement, there are 176.5 days earned leave and he is entitled to encash the same. Though he retired as early as on 31.12.2019, the said payment has not been paid so far. Therefore, the petitioner made a representation to the respondents, but the same has not been considered so far and hence, the petitioner is before this Court. In this regard, the learned counsel for the petitioner referred to the Division Bench judgment of this Court made in W.A. (MD) Nos.1883 to 1892 of 2021 dated 04.10.2021.

4.On the other hand, the learned counsel for the respondents would submit that no doubt, the petitioner is entitled for earned leave salary of 176.5 days. However, since the respondent Corporation is in financial crisis, the same could not be paid and he seeks some time by way of installment. Further he would submit that some employees were retired during COVID-19 pandemic situation and in those cases, he would submit that interest need not be awarded.

5.Admittedly, the petitioner was permitted to retire from service on 31.12.2019 on attaining the age of superannuation and that the petitioner is entitled for the earned leave salary. Though the learned counsel for the respondents accepted that the petitioner is entitled to earned leave salary, he disputes only interest portion.

6.The Division Bench of this Court in the case cited supra has held as follows:

> "8.When the appellant is liable to pay the surrender leave salary on the retirement of their employees, the delay in making payment of the leave salary is solely because of the appellants' inaction. The first respondent writ petitioner cannot be penalized for the wrong done by the appellant. Hence, the award of 6% interest on the surrender leave salary by the learned single Judge is perfectly correct. We do not find any ground to interfere with the orders passed by the learned single Judge. The writ appeals are devoid of merits and the same are dismissed. However, we make it clear that the reliefs granted by the learned single Judge in the writ petitions are confined only to the first respondent/writ petitioners, who have filed the writ petitions. No costs. Consequently, connected miscellaneous Petitions are closed."

7.The Hon'ble Supreme Court in the case of ***State of Jharkhand and others v. Jitendra Kumar Srivastava (2013) 12 SCC 210***, held that the retirement benefits of an employee are not bounty, but property and withholding of such benefits, without due process of law, is violative of Article 300(A) of the Constitution of India.

8.The Hon'ble Supreme Court as well as this Court in several occasions have held that when there is a delay in payment of retirement benefits, the employee is entitled for payment along with interest.

9.In view of the law laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court, this Court is of the view that the petitioner is entitled for the eligible surrender leave salary along with interest at the rate of 6% per annum from the date of his retirement till the date of payment. Therefore, this Court directs the respondents to settle the eligible surrender leave salary of the petitioner along with 6% interest from the date of his retirement till the date of payment and the said amount shall be settled by the respondents on or before 31.07.2022, failing which, the Managing Director or the General Manager (Chief Finance Officer) shall appear before this Court.

10.The Writ Petition is disposed of with the above directions. No costs.

11.Post this matter on **04.08.2022** 'for reporting compliance'.

Sd/-

Assistant Registrar (CS)

// True Copy //

08/04/2022

Sub Assistant Registrar(CS)

To

1.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karur Region,
Karur.

Copy to

The Section Officer,
Writ Section.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-15811[F] dated 31/03/2022)

+1 CC to M/s.A.RAHUL, Advocate (SR-15827[F] dated 31/03/2022)

ORDER MADE IN

W.P.(MD).No.5781 of 2022
31.03.2022

PA(08.04.2022) 4P 6C