



WEB COPY



W.P.(MD).No.17868 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17868 of 2023

A.Inbaraja

... Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam – 612 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to disburse the earned leave salary for 222 days surrendered by the petitioner from the year 2011 together with interest at the rate of 6% per annum from the date of his retirement to till the date of actual payment to be made by the respondent, by considering the petitioner's representation, dated 19.06.2023.

For Petitioner : Mr.SP.Vijay Nivas

For Respondent : Mr.K.Ramaiah
Standing Counsel



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ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondent to disburse the earned leave salary for 222 days surrendered by the petitioner from the year 2011 together with interest at the rate of 6% per annum from the date of his retirement to till the date of actual payment to be made by the respondent, by considering the petitioner's representation, dated 19.06.2023.

2.By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3.Heard Mr.SP.Vijay Nivas, learned counsel appearing for the petitioner and Mr.K.Ramaiah, learned Standing Counsel, who takes for the respondent and perused the materials available on record.

4.The petitioner is a retired employee of the respondent Corporation. He joined duty in the year 1989 as Junior Engineer and attained the age of superannuation on 31.03.2022. The petitioner's surrender leave salary from the year 2011-2016 has not been



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disbursed by the respondent on the ground that the Corporation is facing a financial crisis. On the date of his retirement, the petitioner was having 462 days of earned leave in his credit out of which, he was allowed to encash the monetary value for only 240 days. Hence, the petitioner approached the respondent to disburse the amount for remaining 222 days.

5.As per the Settlement under Section 12(3) of the Industrial Disputes Act, dated 13.02.1999, the employees of the Transport Corporation were given the earned leave encashment benefit and thereby the Transport Corporation employees can surrender their leave of 15 days per year or 30 days in two years once and get the salary for those surrendered days. The first respondent had issued a circular dated 09.01.2017 calling for the options from the employees to receive their surrendered leave salary for the year 2011 to 2014. On the basis of the said circular, the petitioner exercised his option to get the earned leave encashment benefit. However, a new circular, dated 22.03.2018 was issued cancelling the earlier circular dated 09.01.2017. The new circular, dated 22.03.2018 was challenged by the employees before this Court and the said circular was set aside and thereafter, this Court directed the respondent to disburse the earned



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leave encashment benefit for more than 240 days. The Corporation preferred an appeal in W.A(MD)No.210 of 2019 before the Hon'ble Division Bench of this Court and the same was dismissed on 04.09.2019 and the issue attained finality in favour of the employees. On the basis of the order passed by the Hon'ble Division Bench of this Court in the aforesaid Writ Appeal, the petitioner sent a representation, dated 19.06.2023, to the respondent seeking monetary encashment for 222 days earned surrender leave salary benefits. However, the same was not considered. Hence, the present Writ Petition came to be filed.

6.It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of India and direct them to consider the same within a stipulated time.



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7.Considering the facts and circumstances of the case, this Court, without expressing any opinion with regard to the merits of the claim made in the Writ Petition, directs the respondent to consider the representation of the petitioner, dated 19.06.2023, seeking to disburse the earned leave salary for 222 days surrendered by the petitioner from the year 2011 together with interest at the rate of 6% per annum from the date of his retirement to till the date of actual payment to be made by the respondent and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8.With the above direction, this Writ Petition is disposed of.

There shall be no order as to costs.

25.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam – 612 001.

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L.VICTORIA GOWRI, J.

ps

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