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W.P.No.44478 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

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THE HONOURABLE MRS. **JUSTICE R.KALAIMATHI**

W.P.No.44478 of 2016

R.Srinivasan

... Petitioner

vs.

The Management of
Tamilnadu State Transport Corporation (Kovai)Ltd.,
Rep.by its Managing Director,
Coimbatore.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to pay the petitioner Rs.86,920/- towards Leave Salary and Rs.15,422/- towards balance of gratuity, together with 18% interest per annum, along with interest amount towards delayed payment of part of the gratuity amount Rs.3,47,879/- for the period from 30.04.2012 to 30.11.2013 at the rate as per Section 7 (3A) of the payment of Gratuity Act, within a time frame as may be fixed by this Court.

For Petitioner : Ms.G.K.Dharshini
for M/s.V.Ajoykhose



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For Respondent : Mr.A.Sundaravadhanan
Standing Counsel

ORDER

This writ petition has been filed to issue a writ of Mandamus, directing the respondent to pay the petitioner Rs.86,920/- towards Leave Salary and Rs.15,422/- towards balance of gratuity, together with 18% interest per annum, along with interest amount towards delayed payment of part of the gratuity amount Rs.3,47,879/- for the period from 30.04.2012 to 30.11.2013 at the rate as per Section 7 (3A) of the payment of Gratuity Act, within a time frame as may be fixed by this Court.

2. It is the case of the petitioner that the petitioner Mr.R.Srinivasan, S/o.Ramanujam, was appointed as driver in the respondent Corporation on 05.01.1985. After completion of more than 27 years of service, the petitioner was working as a 'Senior Grade Driving Instructor' at Coimbatore Region of the Respondent Corporation and retired on 30.04.2012 on attaining the age of superannuation. The petitioner further submits that he is legally entitled to



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get various terminal benefits namely, Gratuity, Encashment of Leave etc., from the respondent. The respondent has not paid some of the petitioner's terminal benefits without any valid reason.

3. The petitioner further submits that in so far as the employees, who had been working before 1998, they are entitled to save the sick leaves/medical leaves earned by them, before 31.08.1998 separately, as per G.O.(Nilai) No.220, dated 06.08.1999, apart from the Earned Leave and to get wages for the same at the time of his retirement. The petitioner is entitled to get the below said amount as follows:-

<i>Name of the Terminal Benefits</i>	<i>No.of days/years</i>	<i>Amount (Rs.)</i>
Earned Leave and Medical Leave	106 days(63.5 + 42.5)	86,920.00
Gratuity	27 years (rounded off)	3,63,301.00

But the respondent Corporation has wrongly calculated the same, based on the monthly wages actually paid to the petitioner, as Rs.3,47,879/-, without taking into account the increased Dearness Allowance fixed for the period from January to June, 2012 and paid on 30.11.2013 with the delay of 1 ½



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years. But, till date, the respondent Corporation has failed to pay the petitioner, the balance gratuity amount of Rs.15,422/- with interest for the delayed payment of the part of gratuity. Hence, this writ petition has been filed.

4. Heard Ms.G.K.Dharshini, learned representing counsel for the petitioner and Mr.A.Sundaravadhanan, learned Standing Counsel for the respondent.

5. It is seen from the records that the petitioner was appointed as driver on 05.01.1985 and after completion of 27 years of service, retired as 'Senior Grade Driving Instructor' on 30.04.2012. Retired employee from the service, is entitled to get retirement benefits after his retirement.

6. It appears that the Earned Leave Salary, a balance of gratuity with interest towards delayed payment of the part of the gratuity amount of Rs.3,47,879/- for the period from 30.04.2012 to 30.11.2013, at the rate as per Section 7(3A) of the Payment of Gratuity Act, 1972 is not paid to the petitioner.



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7. In Consideration of the above said details, this writ petition stands allowed with a direction to the respondent to settle the petitioner's claim for the period from 30.04.2012 to 30.11.2013 towards gratuity amount with interest at the rate of 10% per annum and other retirement benefits, namely, Encashment of Leave, within a period of twelve weeks from the date of receipt of a copy of this order. There is no order as to costs.

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Index : Yes/No
Neutral Citation : Yes/No
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R.KALAIMATHI, J.,

kkd

To

The Managing Director,
The Management of Tamilnadu State
Transport Corporation (Kovai)Ltd.,
Coimbatore.

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30.04.2024
(1/5)