



W.P.No.24221 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.08.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.24221 of 2024 and
W.M.P.No.26472 of 2024

The Management of
Tamil Nadu State Transport
Corporation (Coimbatore Division) Ltd.,
No.37, Mettupalayam Road,
Coimbatore.

... Petitioner

Vs.

1.S.Thangavel
2.M.Sakthivel
3.S.Ramasamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the award made in C.P.No.35 of 2023 dated 02.11.2023 on the file of the Additional Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondents : Mr.V.Ajoy Khose



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ORDER

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This Writ Petition has been filed challenging the award in C.P.No.35 of 2023 dated 02.11.2023 passed by the learned Presiding Officer, Additional Labour Court, Coimbatore.

2. Heard Mr.T.Chandrasekaran, learned counsel for the petitioner, Mr.V.Ajoy Khose, learned counsel for the respondents and perused the materials available on record.

3. The respondents 1 to 3 have filed computation petition to compute the surrender leave benefits by claiming that they are entitled for encashment of 15 days of earned leave for every one year or 30 days of earned leave for two years.

4. The learned counsel for the petitioner submitted that the respondents have computed their surrender leave entitlement by considering 15 days of earned leave per year and 30 days of earned leave for two years. There cannot be any quarrel on the point about the period



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of leave for which the respondents are entitled for encashment per year or every two years. However, the learned counsel for the petitioner submitted that so far as the earned leave is concerned, there cannot be any question of awarding interest. The Labour Court has awarded interest of 6% unmindful of the fact that the workmen did not file any application in time and the application has been filed only in the year 2023.

5. The learned counsel for the respondents submitted that the circular for the entitlement of earned leave between the period from November 2008 to May 2011 has been issued only on 28.05.2011 and hence, the delay in payment would carry the element of interest.

6. However, the circular has stipulated that all those applications should be received on or before 02.06.2011. According to the respondents, they have filed their applications in time and despite the same, the amount was not sanctioned.



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7. However, the respondents were keeping quite until their retirement. They had given representation only in the year 2023 and sought information about their pending application with regard to encashment of earned leave. Even though there is a delay on the part of the petitioner in granting surrender leave, the reason for not sanctioning the encashment is only in view of the financial crisis faced by the Management. The respondents should also be equally blamed for not sending any reminders and not giving any representation subsequent to their application and they were silent till their retirement. In fact, the representation subsequent to their retirement has also been submitted only in the year 2023.

8. The petitioner could have sanctioned the surrender leave atleast after the representation has been sent by the respondents in the year 2023, as the circular of the Management itself admits their entitlement for surrender leave.

9. In view of the above stated reasons and the lapse on the part of both the petitioner and the respondents, I feel it is appropriate to restrict



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the element of interest at 6% from the date of making representation in the year 2023 till the date of payment. To this effect, the impugned award in C.P.No.35 of 2023 dated 02.11.2023 passed by the learned Presiding Officer, Additional Labour Court, Coimbatore is modified. The other elements of the award remains intact.

10. In the result, this Writ Petition is partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

Index : Yes /No

29.08.2024

Speaking / Non-speaking

Neutral Citation : Yes / No

gsk

To

The Additional Labour Court,
Coimbatore.



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R.N.MANJULA, J.

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