



W.P(MD)No.9273 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.9273 of 2019

M.Rajeswaran

... Petitioner

vs.

- 1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Byepass Road, Madurai-16.
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul-4.
- 3.The Administrator,
Tamil Nadu State Transport Corporation Employees
Pension Fund Trust,
Pallavan Salai,
Chennai-2.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to settle the interest only, on the belatedly settled pension arrears of Rs.8,24,136/- for the



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period 16.10.2003 being the date of retirement till the date of payment on 16.03.2019 at the rate of 12% per annum in the light of the Division Bench Judgment of this Court reported in (2018) 1 MLJ 228 dated 20.10.2017.

For Petitioner : Mr.S.Govindan

For R1 & R2 : Mr.J.Senthil Kumariah

For R3 : No Appearance

ORDER

The Writ Petition is filed for a Mandamus to pay interest at the rate of 12% per annum on the belated settlement of pension and pensionary arrears of Rs.8,24,136/- for the period from 16.10.2003 till 16.03.2019.

2.The brief facts of the present case is that the petitioner who was working as a Driver resigned from service and thereafter, claimed pension and pensionary benefits as per the scheme framed by the first respondent Corporation. Initially, the first respondent Corporation had taken a stand that the employees who tended resignation are not entitled for pension. However, the petitioner filed



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W.P.(MD)No.461 of 2013 and by an order dated 02.03.2015 by following the earlier pronouncement in this regard, whereunder, the rules were interpreted to hold that even the employees who tendered the resignation are also entitled to pension and pensionary benefits, the said writ petition was allowed. Aggrieved thereof, the matter was carried by way of an *intra court* appeal in W.A.No.855 of 2017 and the same was also dismissed by an order dated 04.07.2017. Further, the respondents also filed S.L.P(C) No.4257 of 2018 and by an order dated 19.02.2018, the SLP is also dismissed. It is only thereafter, the entire arrears amounting to Rs.8,24,136/- is settled. Therefore, the present writ petition is filed claiming interest at the rate of 12% per annum for the belated settlement.

3.The learned counsel appearing on behalf of the first and second respondents, firstly, would submit that in this case, there was no wilful or wanton default on part of the respondents in not paying the pensionary benefits only under the circumstances, which arises out of interpretation of rule. Secondly, he would further submit that the entire scheme is administered by the third respondent who alone is entitled to take a call in the matter.



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4.Eventhough notice has been served, the name of the third respondent is printed, none appears or no counter affidavit is filed.

5.Upon consideration of the rival submissions made and the material records of the case. I am of the view that when the pension and pensionary benefits are lawfully due to the petitioner was wrongfully denied by an erroneous interpretation of the rule, then as a natural corollary for the belated payment, the petitioner will be entitled to interest as the pension and pensionary benefits are not bounties which are offered by the first respondent management but the right of the employee. So long as the same was deprived, the petitioner will be entitled to interest. Eventhough the petitioner is claiming 12% per annum, however on the facts and circumstances of the case, I am inclined to order payment at the rate of 9% per annum.

6.The learne counsel for the respondents 1 and 2 would further submit that alternatively instead of 9% only 6% may be ordered and if 9% is granted, even in respect of all the other cases, the employees may claim parity. It is made clear that



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by taking into account the facts and circumstances of the present case, considering the fact that it is pension and pensionary benefits, the interest rate is ordered by this Court.

7. In the result, this Writ Petition is allowed with the following directions:

(i) The respondents 1 to 3 are directed to pay interest for the belated payment of pension and pensionary arrears to the petitioner at the rate of 9% per annum from the dates, on which, the respective amounts became due till date of realisation. The said exercise shall be carried out and the interest shall be paid within a period of two months from the date of receipt of a copy of this order;

(ii) However, there shall be no order as to costs.

07.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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D.BHARATHA CHAKRAVARTHY,J.

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To

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ORDER MADE IN
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