



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.12.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.23214 of 2016
& W.M.P. (MD) No.16653 of 2016

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The General Manager,
Tamil Nadu State Transport Corporation
Tirunelveli Limited,
Tirunelveli Region, Vannarpettai,
Tirunelveli District

... Petitioner

vs.

1. The Controller under the Payment of Gratuity Act/
Assistant Commissioner of Labour,
Tirunelveli District

2. J.Yesumani

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records from the first respondent regarding impugned award passed by it in P.G.No.64 of 2012 dated 25.11.2013, in so far as it related to the payment of 10% interest, instead of 6% and quash the same regarding the offending interest portion alone namely 10% interest and consequently to direct the first respondent to modify the order regarding the payment of interest from 10% to 6%.

For Petitioner : Mr. Sathiya Singh

For R - 1 : Mr. A.Muthukaruppan, AGP.,

O R D E R

This writ of Certiorarified Mandamus has been filed, seeking to quash the impugned order, dated 25.11.2013, passed by the first respondent, insofar as it relates to the awarding of 10% interest instead of 6% and consequently, direct the first respondent to modify the order regarding the award of interest from 10% to 6%.

2. Heard the learned counsel appearing for the petitioner and the learned counsel for the first respondent. By consent, the writ petition itself is taken up for hearing at the stage of admission.

3. The learned counsel appearing for the petitioner would submit that while passing the impugned award, the first respondent has directed the petitioner Corporation to settle the retirement benefits with 10% interest instead of 6%. He would further submit that in similar circumstances, this Court, in W.A.(MD) No.403 of 2010, dated 04.07.2014, taking into account the overall facts and circumstances and the critical financial position in which the Corporation is now placed, has ordered to follow uniform interest at the rate of 6%.



4. The relevant portion of the said order is extracted hereunder:-

"12. There are few employees who have come up with review applications on the ground that though by the previous orders passed in the writ appeals of the Corporation, the Corporation was directed to pay interest, no time limit was fixed for eventual payment. There are few other employees who have come up with writ petitions seeking for a direction to pay the balance gratuity and other retirement benefits, within a time frame, by considering their representations. Some other employees have come up with writ appeals in W.A.(MD) Nos.15 to 27 of 2010 in this respect. But we do not think that a time limit could be fixed. We are in agreement with the orders of the learned single Judges directing payment of interest. A few Judges have granted interest at 6% p.a., and a few Judges have granted interest at 9% p.a. Taking into account the overall facts and circumstances, and the precarious position in which the Corporation is now placed, we are of the view that application of uniform rate of interest at 6% would suffice. There is one more reason for us to arrive at this conclusion. The persons in whose favour only interest at 6% was allowed, have not come up with a prayer for awarding interest at 9%. Therefore, if we do not apply an uniform rate, a few persons will get 6% and few persons will get 9%. Such a disparity created by Court has to be levelled. Therefore, while dismissing the writ appeals filed by the corporation, we direct the Corporation to apply uniform rate of interest at 6% p.a., and make disbursements in accordance with seniority. Though we do not wish to fix a time limit for the Corporation to make payment, in view of the condition in which the Corporation is placed, we are of the view that in their own interest, the Corporation should settle the benefits as soon as possible, so that further liability of interest can be avoided."

4.1. Even though direction has been sought for to the first respondent to modify the order with regard to the award of interest, that step would be time consuming process especially, when the Division Bench of this Court has already awarded interest only 6% per annum and already there is a direction for the Corporation to settle the benefits with interest at 6% per annum. Therefore, this Court is of the view that instead of directing the first respondent, it is appropriate to direct the Corporation straightaway to award interest at 6% per annum.

<https://hcservices.ecourts.gov.in/hcservices/>

5. In view of the submission made by the learned counsel for the petitioner and also in the light of the order passed in W.A. (MD) No.403 of 2010, dated 04.07.2014, the impugned order passed



by the first respondent, insofar as it relates to the award of 10% interest alone, is set-aside. The petitioner Corporation is directed to settle the benefits along with interest at the rate of 6% p.a., and make disbursement as expeditiously as possible.

6. The writ petition is ordered accordingly. No costs. Consequently, WMP (MD) No.16653 of 2016 is closed.

Sd/-

Assistant Registrar[CS-I]

/True copy/

Sub Assistant Registrar

To

1. The Controller under the Payment of Gratuity Act/
Assistant Commissioner of Labour,
Tirunelveli District.

+1CC to Mr.K.Sathiya Singh, Advocate in SR 78202/16

MJ/SRK

KK/SMV/18.01.17/3P/3c

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