

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.7820 of 2013

S.X.Avelio

..Petitioner

Versus

The Tamil Nadu Civil Supplies
Corporation,

Rep. by its Managing Director,
42, Thambuswamy Road, Chennai - 10.

.. Respondent

Prayers: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the respondent to fix the scale of pay of the petitioner in the cadre of Assistant Manager (Quality Control) from 27.10.2010 with arrears of pay till 30.09.2012 and to pay the gratuity on the basis of such revised pay immediately with penal interest at 18%.

For Petitioner : M/s.S.Venkataraman

For Respondent : Mr.C.Munusamy

for Civil Supplies Corporation

O R D E R

The petitioner has filed this petition praying to direct the respondent to fix the scale of pay of the petitioner in the cadre of Assistant Manager (Quality Control) from 27.10.2010, with arrears of pay till 30.09.2012 and to pay the gratuity, on the basis of such revised pay immediately with penal interest at 18%.

2. According to the petitioner, that he has was employed in the Tamil Nadu Civil Supplies Corporation and he was retired from service on 30.09.2012, as Assistant Manager (Quality Control). The petitioner was promoted as Assistant Manager (Quality Control) on 27.10.2010, but the respondent failed to fix his pay in the promoted post till his retirement. Hence, the petitioner has filed this Writ Petition with the afore said prayer.

3. The learned counsel appearing for the petitioner has submitted that after filing the Writ Petition, the respondent has paid the the gratuity amount on 08.08.2013. Hence, there is a delay of 9 months in settling the gratuity amount.

Therefore, the petitioner relying upon the circular issued by the respondent on 28.07.2010, wherein it is clearly stated that the gratuity amount should be paid, with in one month from the date of retirement. But the respondent / Corporation has not paid the gratuity amount with in a period of 30 days.

4. Petitioner is also relying upon the decision of this Court in W.P.(MD) No.12317 of 2014, dated 02.09.2014, wherein it has been observed as follows:

"6. The Hon'ble Supreme Court in D.D.Tewari (D) Thr. Lrs. Vs. Uttar Haryana Bijli Vitran Nigam Ltd. (2014(9) Scale 78) indicated that in case authority failed to pay gratuity within the stipulated period, they are liable in law for payment of penal amount on the belated payment of gratuity under the provisions of Payment of Gratuity Act, 1972. The Supreme Court directed the respondents therein to pay interest at the rate of 9% on the belated payment of pension and gratuity amount from the date of entitlement to the date of actual payment.

7. The third respondent is directed to calculate the interest for the period in question at the rate of 9% p.a. The amount shall be paid within a period of 30 days from the date of receipt of a copy of this order, failing which it would carry interest at 18% p.a.

8. The Writ Petition is allowed as indicated above. No costs."

5. The learned counsel for the petitioner has today filed a memo stating that after filing the Writ Petition, the respondent released both the amount due, on 08.08.2013, hence major part of the prayer complied with. Therefore, the petitioner confines himself to the relief of interest for the delayed payment of benefits.

6. As on today no counter affidavit has been filed by the respondent. However, there is no dispute in the fact that there is a delay in payment of of gratuity amount to the petitioner.

7. In view of the said submission made in the memo filed by the petitioner, the question now to be decided is only with regard to the delayed payment of interest for the gratuity amount. In view of said decision of this Court in the case of W.P. (MD) No.12317 of 2014, dated 02.09.2014. The respondent is

directed to calculate the interest for the delayed period at the rate of 9% per annum and the same shall be paid within a period of eight weeks from the date of receipt of a copy of this order. Any default in payment of the said interest, within the aforesaid period, the petitioner is entitled for the interest at the rate of 12% per annum. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs

To
The Managing Director,
Tamil Nadu Civil Supplies Corporation,
42, Thambuswamy Road, Chennai - 10.

+ 1 cc to Mr.C. Munusamy, Advocate Sr.10040

W.P.No.7820 of 2013

KJI (CO)
EU 20.03.17



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