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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.17433 of 2017

P.Tamilselvan ... Petitioner

Vs.

The State Express Transport Corporation
(Tamil Nadu) Ltd.,
Rep. by its Managing Director,
Pallavan Salai, Chennai -2. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of mandamus directing the respondent to settle interest for the belated payment of Gratuity, from the date of the petitioner's retirement to till the date on which the said benefits were settled to him.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.K.Sathiya Singh

<u>O R D E R</u>

By consent on either side, the writ petition is taken up for final disposal at the stage of admission itself. Mr.K.Sathiya Singh, learned Advocate takes notice for the respondent.

2. It is the case of the petitioner that he served as Conductor under the respondents corporation with effect from 05.10.1988. After periodical promotion, he was promoted as Selection Grade Senior Conductor and he retired from service with effect from 30.06.2015 and the petitioner claims 18% interest p.a. for the belated payment of the petitioner's retirement dues.

3. This Court, in similar circumstances, in **A.Krishnamani vs.** The State Express Transport Corporation (Tamil Nadu) Ltd., Rep. by its Managing Director, **Pallavan Salai, Chennai -2, batch, in W.P.(MD)Nos.12029 to 12038 of 2016 and etc., batch,** had considered various aspects and passed a consolidated order on 26.10.2016 by holding as under:

"......

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11.Section 8 of the Payment of Gratuity Act, 1972, enables payment of interest in case of delayed payment subject to the condition that such **interest shall not be more than the gratuity amount.** The said section is as follows:-

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"Section 8. Recovery of gratuity.-

If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon [at such rate as the Central Government may, by notification, specify,] from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto:

[Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.]

It was held by the Honble Apex Court, while construing Section 8 of the said Act in H.Gangathanume Gowda vs. Karnakata Agro Industries Corporation Ltd., [(2003) 1 LLJ 1119 (SC)] that, if the **employer has not paid gratuity, there is a liability even to pay compound interest.**

12. The learned counsel for the petitioner would also submit that the interest can be awarded either at 18% or at 9% and as per the orders in the Writ Appeal (MD)Nos.383 to 457 of 2015, dated 12.06.2015 and that this Court while ordering the retirement dues, has ordered payment by installment along with interest at 6% p.a. and this Court also has to maintain the consistency.

13. Following the Division Bench Judgment of this Court, the Courts are consistently passing orders for payment of retirement dues with interest at 6% p.a. with default interest of 18% p.a.

14.Accordingly, the respondent is directed to pay the interest due (at rate of 6% p.a.) on the retirement dues already paid, within a period of six weeks from the date of receipt of a copy of this order, failing which, the default interest would be 18% p.a."

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4. Following the Judgments of the Hon'ble Apex Court / Division Bench of this Court and also bearing in mind the subsequent judgment rendered by the learned Single Judge of this Court, referred to supra, the respondent is directed to pay the interest due (at rate of 6% p.a.) on the retirement dues already paid, within a period of six weeks from the date of receipt of a copy of this order, failing which, the default interest would be 18% p.a.

5. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

The State Express Transport Corporation
(Tamil Nadu) Ltd.,
Rep. by its Managing Director,
Pallavan Salai, Chennai -2.

+1 cc to Mr.A.Rahul , Advocate in SR.No. 79255
+1 cc to Mr.K.Sathiya Singh , Advocate in SR.No. 79173

rm
AE/SV MMS/SAR1/25.09.2017/3P/4C

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