BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.02.2017
CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P(MD)No.2140 of 2017

C.Chinnathambi ... Petitioner

vs.

The Managing Director,
Tamilnadu State Express Transport Corporation Limited,
Thiruvalluvar Illam,
Pallavan Salai, Chennai-600 002. ... Respondent

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pay the 12% interest for the belated payment of provident fund from the date of my retirement to the actual date of payment of provident fund based on the petitioner's representation dated 21.03.2016 and 20.06.2016.

For Petitioner : Mr.K.Vamanan
For Respondent : Mr.K.Sathiya Singh

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus, directing the respondent to pay 12% interest for the belated payment of provident fund from the date of the petitioner's retirement to the actual date of payment of provident fund, based on the petitioner's representations dated 21.03.2016 and 20.06.2016 respectively.

2.The petitioner was employed as Selection Grade Senior Tradesman in the respondent transport corporation. He retired from service on 31.05.2013.

3.The contention of the petitioner is that the retirement benefits ought to have been paid on the date of retirement or atleast, reasonably within a short period immediately after retirement. It is pointed out that as the payment was not made so, but made belatedly, the respondent is liable to pay interest.

4.The learned counsel for the petitioner relied upon the following provisions of law and the reported decisions and contended that if the payment is not duly made in accordance with the time prescribed, under the Law, then the petitioner is entitled to claim interest.

5.It is appropriate to consider those provisions and decisions. Pointing out that it is imperative for the respondents

(a) to keep in mind the time schedule prescribed in the rules/instructions;

(b) to initiate various steps towards grant of retirement benefits well in advance prior to the date of retirement;

(c) to realise that there is liability even to pay compound interest and

(d) to pay interest even in the absence of express provisions, the following decisions are relied upon:-

(i) In the case of Government of Tamil Nadu vs. M. Deivasigamani , reported in 2009 (3) MLJ 1, this Court has held as follows:-

> "The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the Supreme Court in S.K.Dua v. State of Haryana reported in 2008 (3) SCC 44. "

(ii) In the decision in Uma Agrawal vs State Of U.P. And Anr. reported in 1999 (3) SCC 438, the Hon'ble Supreme Court held as under:-

> "We have referred in sufficient detail to the Rules and instructions which prescribe the time-schedule for the various steps to be taken in regard to the payment of pension and other retiral benefits. This we have done to remind the various Governmental Departments of their duties in initiating various steps at least two years in advance of the date of retirement. If the Rules/instructions are followed strictly much of the litigation can be avoided and retired Government servants will not feel harassed because, afterall, grant of pension is not a bounty but a right of the Government servant. Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring ever in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired Government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the Rules/instructions apart from other relevant factors applicable to each case."

(iii) In the case of Vijay L. Mehrotra v. State of U.P. & Ors reported in JT 2000 (5) SC 171, the Hon'ble Supreme Court had granted interest on, inter alia, the delayed payment of the leave encashment amount at the rate of 18% per annum. The relevant portion of the said Supreme Court decision is as under:-

> "2. The appellant retired from service on 31st August, 1997. From the response, filed by the respondent, it is clear that most of the payments of the retiral benefits to her were made long after she retired on 31st August, 1997. The details of the payments so made are as under:

S.No.	Particulars	Amount Paid	Date
(i)	GPF 90%	Rs. 1,80,899.00	27.11.1997
(ii)	GPF 10%	Rs. 20,751.00	25.04.1998
(iii)	GIS	Rs. 13,379.00	27.02.1998
(iv)	Enchashment of leave	Rs. 41,358.00	27.09.1998
(v)	Arrears of pay	Rs. 15,495.00	27.09.1998
(vi)	Gratuity	Rs. 1,09,753.00	05.12.1998
(vii)	Commuted pension	Rs. 20,484.00	05.12.1998
(viii)	Detained amount	Rs. 45,000.00	05.11.1999

6.The further contention of the learned counsel for the petitioner is that even in the absence of rules/administrative instructions or Government orders, the petitioner is entitled to interest based upon the provisions of the constitution and in order to support the proposition, the following decision is relied upon:-

(i) In S.K. Dua vs State Of Haryana & Anr reported in 2008 (3) SCC 44, the Hon'ble Supreme Court has held as follows:-

> "............the grievance voiced by the appellant appears to be well- founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of bounty is, in our opinion, well-founded and needs no authority in support thereof ...."

7.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.

8.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.

9.Accordingly, the respondents are 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.

This writ Petition is ordered accordingly. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Managing Director,
Tamilnadu State Express Transport Corporation Limited,
Thiruvalluvar Illam,
Pallavan Salai, Chennai-600 002.
+1cc to M/s. K.VAMANAN Advocate in SR. No.7107
+1cc to M/s.K.SATHIYA SINGH Advocate in SR. No.7067
NBI
JS/BS/24.02.2017/4P-4C

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