

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.21892 of 2019

R.Gunasekaran

... Petitioner

-Vs-

1. Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Rep. by its Managing Director
3/137, Salamadu,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Chennai-Bangalore National Highway,
Ponnerikarai,
Kancheepuram.
3. The Administrator,
Tamil Nadu State Transport Corporations
Employees' Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai - 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay me a sum of Rs.15,58,393.26 towards gratuity; a sum of Rs.12,80,000/- commuted value of pension ; a sum of Rs.7,47,000/- towards earned leave salary and medical leave salary and also to pay the petitioner the correct rate of dearness allowance from the date of my retirement for my monthly pension on par with the serving employees and as revised from time to time, with arrears and to pay interest for the belated payment of all the above terminal benefits at the rate of 12% per annum and to pay all the above benefits within a specified time as may be fixed by this Court, Award costs.

For Petitioner	: Mr.R.Krishnaswamy
For Respondents	: Mr.Antony Arogyaraj
	Standing Counsel

ORDER

This writ petition has been filed for the issuance of writ of mandamus directing the respondents to pay the terminal benefits and interest for the belated payment of the terminal benefits.

2.The petitioner joined the respondent Transport Corporation as an Assistant Foreman in the year 1985. He was promoted as Junior Engineer and Assistant Engineer in the year 1992 and 1993 respectively. The petitioner was promoted as a Senior Assistant Engineer in the year 2003 and he attained the Selection Grade in the year 2009. The petitioner ultimately superannuated w.e.f. 30.04.2018, after putting in 33 years of service.

3.The petitioner was paid only employees' contribution of Provident Fund at the time of his retirement and all the other terminal benefits were not paid. Therefore, the petitioner made a representation to the respondents to settle the terminal benefits and ultimately knocked the doors of this Court seeking for terminal benefits and for payment of interest for the belated settlement of terminal benefits.

4.The learned counsel for the petitioner submitted that the petitioner was not settled with the gratuity, earned leave, medical leave and commuted pension from the year 2018 onwards. The learned counsel further submitted that wherever there is a delay in settlement of terminal benefits, the petitioner is entitled for claiming interest. In order to substantiate his submissions, the learned counsel relied upon the judgment of the Hon'ble Division Bench in the case of M.Suceela Bai vs. Government of Tamil Nadu reported in (2019) 8 MLJ 129.

5.Per Contra, the learned counsel appearing on behalf of the Transport Corporation submitted that the Transport Corporation was facing financial crisis due to the losses and ultimately, the State Government had to come to its rescue by providing with funds. After the funds were given by the State Government, all the terminal benefits of retired employees has been settled. The learned counsel submitted that in the case of the petitioner, all the terminal benefits have been paid and therefore, there is no question of payment of interest for the belated payment of the terminal benefits.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.In the present case, it is seen that the petitioner had

retired from service w.e.f. 30.04.2018 after putting in 33 years of services. Except for the employees' contribution of Provident Fund, no other benefits were settled to the petitioner. From the payment details that have been provided by the respondent Corporation, it is seen that the terminal benefits such as gratuity, earned leave, medical leave and commuted pension has been settled nearly after one year from the date of superannuation. There is no dispute that there was a delay in the settlement of the terminal benefits.

8.The repeated judgments of the Hon'ble Supreme Court and this Court have taken a very consistent stand that an employee is entitled to claim interest for belated payment of pension and other terminal benefits. Courts have gone to the extent of saying that even in the absence of statutory rules or guidelines, the employees are entitled to claim interest on belated payment of terminal benefits.

9.The respondent Corporation has taken a stand that they were in a financial crunch and therefore, they could settle the terminal benefits only after they received the funds from the State Government. The financial difficulties faced by the Corporation cannot result in endlessly postponing the settlement of the terminal benefits since an employee while leaving Corporation, must leave as a happy person. His entire retirement life is dependent upon his terminal benefits and the more it is delayed, the more hardships an employee will face. That is the reason why, the Courts are repeatedly holding that an employee is entitled for interest for the belated payment of pension and other retirement benefits.

10.In view of the above, the petitioner is directed to make a representation to the 1st respondent along with the copy of this order and the 1st respondent shall take into consideration the delay in the settlement of the terminal benefits and he shall come to a conclusion as to the entitlement of the petitioner for interest on the belated payment of the terminal benefits and shall pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order.

11.This writ petition is disposed of with the above directions. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

ssr

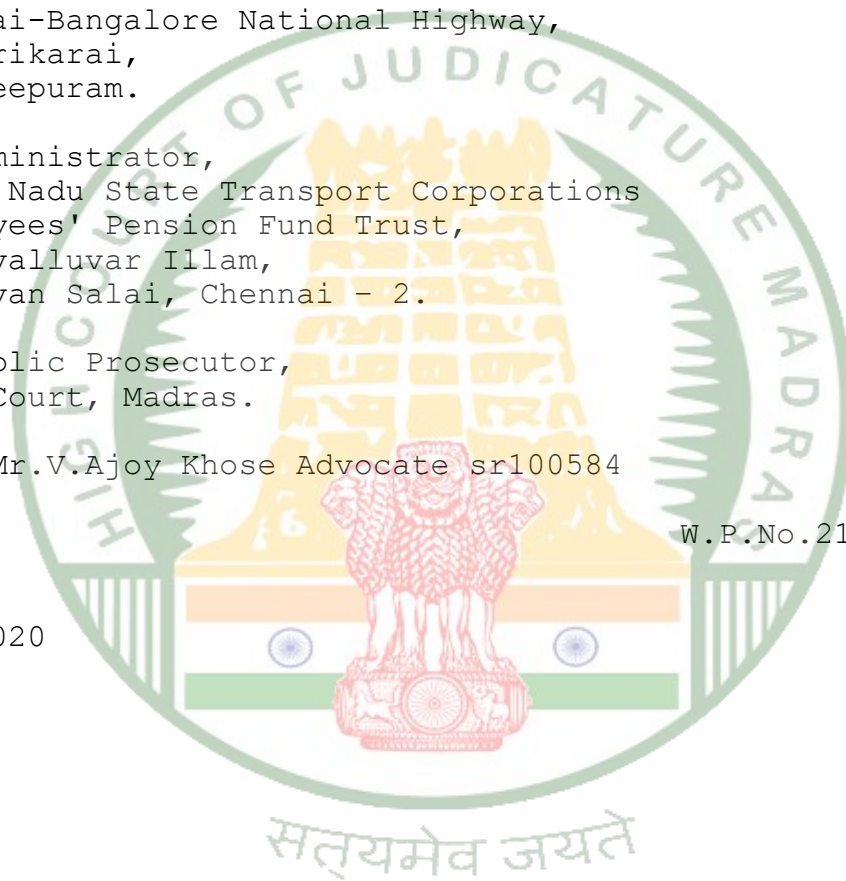
To

1. Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
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2. The General Manager,
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3. The Administrator,
Tamil Nadu State Transport Corporations
Employees' Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai - 2.
4. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.V.Ajoy Khose Advocate sr100584

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