



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.5564 of 2016

P.Ramaiah

... Petitioner

-Vs-

1.The Administrator,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Employees Gratuity Fund Trust,
Madurai-10.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to disburse the gratuity amount payable to the petitioner with interest at the rate of 12% from the date of retirement till the date of payment by the respondents, within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.J.Senthil Kumaraiah

ORDER

Heard Mr.J.Lawrance, learned counsel appearing on behalf of the petitioner and Mr.J.Senthil Kumaraiah, learned counsel appearing on behalf of the respondents.

2.This Writ Petition is filed for a direction to direct the respondents to disburse the gratuity amount payable to the petitioner with interest at the rate of 12% from the date of retirement till the date of payment by the respondents.

3.The petitioner, who was a Ex-Serviceman, joined as Driver in the respondent Corporation in the year 1994, served for about 13 years 7 months and retired from service on 31.10.2009, on attaining the age of superannuation. The petitioner is eligible for gratuity, pension, as per Rule 16(a)(i) of Tamil Nadu State Transport Corporation Pension Funds Rules. However, the respondents did not pay terminal benefits. In this regard, the petitioner gave a representation, dated 01.09.2010, to the respondents and filed W.P.(MD)No.13575 of 2011, seeking for a direction to the respondents to consider the representation of the petitioner. This Court, by an order dated 19.03.2012, directed



the respondents to consider the representation and pass appropriate orders, disbursing the retirement benefits, if no amount is paid. On receipt of the order of the respondents, they sanctioned pension and other benefits and now, the petitioner is receiving pension. The respondents also settled the terminal benefits, except gratuity. To the notice issued by the petitioner, alleging violation of the order of this Court, dated 19.03.2012 made in W.P.(MD)No.13575 of 2011, the respondents sent a reply, stating that the petitioner was imposed with the punishment of stoppage of increment in various periods and three punishments were unimplemented due to his retirement and monthly value of such unimplemented punishment is Rs.56,770/- and it is to be returned by the petitioner, after receiving the cheque for payment of gratuity. In view of such reply, the petitioner gave a representation dated 01.03.2016. But, so far, no order is passed thereon. Hence, the petitioner has come forward with the present Writ Petition.

4.From the materials on record, it is seen that this Court, by order dated 19.03.2012, directed the respondents to consider the representation and to pay terminal benefits of the petitioner. At that time, the respondents did not make any claim for Rs.56,770/- being the value of the unimplemented punishment. Further, the gratuity can be withheld or forfeited only if the petitioner causes any financial loss to the respondents and the loss is being quantified in an enquiry after issuing notice to the petitioner. It is not a case of the respondents that the petitioner caused loss to the respondents and therefore, the petitioner is not liable to pay back the gratuity amount being paid by the respondents. The reasons given by the respondents, calling upon the petitioner to repay a sum of Rs.56,770/-, after receiving the gratuity amount, are not valid. The respondents are liable to pay gratuity to the petitioner and they are not entitled to any repayment by the petitioner, after receiving gratuity from the respondents.

5.For the above reasons, the respondents are directed to disburse the amount of Rs.56,770/- being the gratuity together with interest of 6% to the petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6.With the above direction, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



+1 CC to M/s.J.LAWRANCE, Advocate (SR-86822[F] dated 16/09/2019)

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