



WEB COPY

W.A.(MD)No.1322 / 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1322 of 2019

and

C.M.P. (MD)No.11171 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Madurai Ltd.,
Bypass Road,
Madurai-10. ... Appellant/Petitioner

Vs.

D.Radhakrishnan .. Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, against the order dated 13.03.2019 made in W.P.(MD)No.10882 of 2015 on the file of this Court.

Prayer in WP(MD). 10882/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other appropriate writ or orders or directions in the nature of writ directing the respondent to settle the Employees Retirement Benefit Scheme arrears and IRT contributions and the interest at the rate of 9% per annum for the belated payment of Terminal Benefits from the date of retirement on 30.09.2000 till the date of payment on 5.11.2013 in the light of Judgement reported in 2014(4) LLN 14(SC) and as per the Rule 45A of the Tamilnadu Pension Rules.

For Appellant : Mr.J.Senthil Kumaraiah

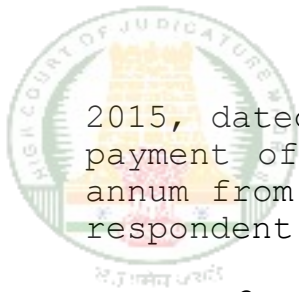
For Respondent : Mr.S.Govindan

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.J.Senthil Kumaraiah, learned counsel for the appellant and Mr.S.Govindan, learned counsel for the respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal by the Tamil Nadu State Transport Corporation, Madurai Ltd. is directed against the order in W.P.(MD)No.10882 of
<https://hcservices.ecourts.gov.in/hcservices/>



2015, dated 13.03.2019, by which the learned writ Court had directed payment of interest on the retiral benefits at the rate of 8% per annum from the date of entitlement, which is on 30.09.2000, when the respondent / workman was retired on Voluntary Retirement Scheme.

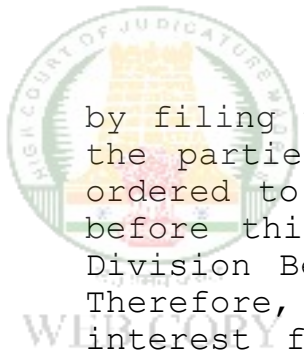
3. The respondent claimed pension in the year 2000 upon his voluntary retirement, which was denied stating that he did not completed the required 20 years of qualifying service. By then, similarly placed persons have already moved the Court seeking for identical benefit and the said writ petitions were pending. The respondent / writ petitioner had been submitting representations.

4. Other coworker's writ petition was allowed in the year 2008 and the appellant Corporation was unsuccessful upto the Hon'ble Supreme Court. This decision was followed in another case in the case of Natarajan, which was applied to the case of the respondent in the writ petition filed by him in the year 2010 and pensionary benefits were directed to be granted by order, dated 06.07.2011. The appellant filed writ appeal against the said order, which was dismissed on 04.06.2013. Since contempt petition was pending, the appellant corporation settled the pension and arrears on 05.11.2013.

5. The learned counsel for the respondent / writ petitioner would submit that no workout details were given as to how the pension and arrears were computed and since the respondents could not question the appellant Management, he had accepted the payment and till date he is unaware as to how the pension was computed. Subsequently, the present writ petition was filed in the year 2015 claiming interest, which has been ordered directing interest to be paid from date of entitlement, which should be from September 2000, when the respondent retired on voluntary retirement scheme.

6. In our considered view the delay in approaching the Court for nearly 10 years remains unexplained. It appears that the respondent was waiting and watching the proceedings initiated by his coworkers, one of whom succeeded in the year 2008 and this order was confirmed upto the Hon'ble Supreme Court and another coworker was also successful. The matter attained finality after the Hon'ble Supreme Court dismissed the Special Leave Petition on 08.05.2013. In such circumstances, the appellant Corporation would not have been justified to test the order in the respondent's case, which was allowed on 06.07.2011. It should have been gracious enough to accept the order and pay the pension but the appellant chose to contest their appeal, which was dismissed on 04.07.2013 and apprehending action for contempt, all arrears and pension were settled on 05.11.2013.

7. In our considered view, since the delay between 2000 to 2010 remains unexplained, the respondent / writ petitioner would not be justified in seeking interest during the said period and



by filing the writ petition. Thus balancing the interests of both the parties, this Court is of the view that the interest can be ordered to be paid from the date, on which the coworker succeeded before this Court, which was in the year 2008, when the Hon'ble Division Bench dismissed W.A.(MD)No.585 of 2007, dated 20.03.2008. Therefore, the writ petitioner would be entitled for payment of interest from the year 2008. Accordingly, this writ appeal is partly allowed and the order and direction issued in the writ petition is modified by directing payment of interest at the rate of 8% on the pensionary benefits from September, 2008, till the date on which, it was settled namely, 05.11.2013.

8. Today, the learned counsel for the appellant has handed over a cheque bearing Cheque No.62502007, dated 21.10.2019, drawn on Indian Overseas Bank, Madurai Main Branch, East Veli Street, Madurai in favour of the respondent / writ petitioner for a sum of RS.1,11,734/- to the learned counsel for the respondent.

9. The learned counsel for the respondent has accepted the same without prejudice to the rights and contentions to question the correctness of the computation made by the appellant Corporation.

10. The learned counsel for the respondent / writ petitioner reiterated that the respondent is in dark as to how the computation was done and the appellant should be directed to furnish a calculation memo as to how the pension and arrears of interest were computed.

11. The appellant Corporation is directed to settle the interest payable for the period namely, from September 2000 to November 2013 within a period of eight weeks from the date of receipt of a copy of this judgment. The appellant Corporation shall give a calculation seat clearly indicating as to how pension and arrears were computed. We give liberty to the respondent to question the said computation by way of separate proceedings, in the event the respondent disputed the correctness of the computation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

The Managing Director,
Tamil Nadu State Transport Corporation Madurai Ltd.,
Bypass Road,
Madurai-10.

+1 CC to Mr.S. GOVINDAN, Advocate (SR-100894[F] dated 25/11/2019)

+1 CC to Mr.J. SENTHIL KUMARAIAH, Advocate (SR-100937[F] dated
25/11/2019)

ORDER MADE IN
W.A. (MD)No.1322 of 2019
25.11.2019

VB(13.12.2019) 4P 4C