



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

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THE HON'BLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) Nos. 8699 and 8706 of 2020

W.P (MD) .No.8699 of 2020

S.Muthusamy

... Petitioner

-Vs-

1.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep., by its Managing Director,
Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Nagapattinam Region,
Nagapattinam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to settle interest at the rate of 18% per annum for the belated payment of the petitioner's terminal benefits including Gratuity, Terminal Leave Salary and Provident Fund from the date of the petitioner's retirement to till the date on which the said benefits were settled to him.

W.P (MD) .No.8706 of 2020

A.Mohanarajan

... Petitioner

-Vs-

1.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep., by its Managing Director,
Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Nagapattinam Region,
Nagapattinam.



3. The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to settle interest at the rate of 18% per annum for the belated payment of the petitioner's terminal benefits including Gratuity, Terminal Leave Salary, Commuted Value of Pension and Provident Fund from the date of the petitioner's retirement to till the date on which the said benefits were settled to him.

In both petitions

For Petitioner : Mr. A. Rahul

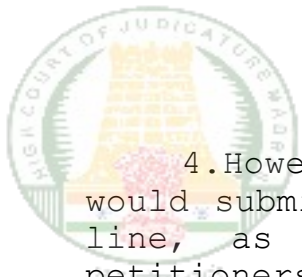
For Respondents : Mr. P. Balasubramanian
Standing Counsel

COMMON ORDER

In both the writ petitions, the respective petitioners are the erstwhile employees of the respondent Transport Corporation.

2. The petitioners were working as Selection Grade Driver and Senior Driver respectively. After having served for several years in the respondent Corporation, they retired from service on superannuation. However, their service benefits had not been immediately disbursed by the respondents and according to the learned counsel appearing for the petitioners, since these petitioners retired from service on superannuation on 30.06.2018, the benefits should have been disbursed then and there. However, belatedly only in the month of September 2019 i.e., on 20.09.2019, these retiral benefits for the petitioners were disbursed by the respondent Transport Corporations. Therefore, the learned counsel would submit that, the petitioners are entitled to get interest at the rate of 6% for the belated payment of retiral benefits paid to the petitioners and in order to get such interest, the present writ petitions have been filed.

3. The learned counsel appearing for the petitioners also relied upon an earlier decision of this Court made in W.P(MD).No.25672 of 2019, dated 03.12.2019 and would submit that, number of orders in that line have been passed, where this Court allowed the writ petitions filed by the respective employees/petitioners, where directions were issued to the respondent Transport Corporation to pay 6% interest for the belated payment for the period from the date of the said retiral benefits become due till the date of payment. In the same line, similar orders can be passed in these writ petitions also, the learned counsel contended.



4. However, Mr. P. Balasubramanian, learned Standing Counsel would submit that, though number of orders have been passed in the line, as has been indicated by the learned counsel for the petitioners, in some cases, the Court passed orders to pay the retiral benefits on installments basis of 12 equal installments. In those cases, it is the stand of the respondent Corporation that, the Transport Corporation need not pay interest. Further, the learned Standing Counsel for the respondents contended that, yet another special reason is available for the respondents to state that, because of the COVID-19 situation from March 3rd week onwards, the Transport Corporations are not able to ply their buses as the Public Transport System has been suspended due to lock down procedure.

5. In view of the said factor that, for the past three or four months, since no revenue generation is possible or available to the respondent Transport Corporations, these Corporations are under severe financial crisis, so that, it is one of the reason the respondent Corporations could not pay the retiral benefits to number of retired employees. Therefore, in that circumstances, according to the learned Standing Counsel for the respondents, if the respondent Corporations is directed to pay the interest also to these people, that will further add financial crisis to the respondent Transport Corporation. Therefore, that can also be taken into account while disposing these writ petitions.

6. I have considered the said submissions made by the learned counsel appearing for the parties and also perused the materials placed before this Court.

7. As has been rightly pointed out by the learned counsel appearing for the petitioners that, in number of cases, similar orders have been passed, where if there is any belated payment of retiral benefits for the employee of the Transport Corporation, in those cases, Court have shown its indulgence by giving direction to the respondent Corporation to pay interest for the belated payment to the retired employees at the rate of 6% per annum from the date the amount become due till the date of payment.

8. In the case cited by the learned counsel for the petitioners in W.P(MD).No.25672 of 2019, dated 03.12.2019 also, this Court has passed the same order, where the following directions have been made through Court:

'.....

6. In the light of the above observations, there shall be a direction to the second respondent's corporation to pay the penal interest at the rate of 6% per annum on the belated payment of the retirement benefits for the period from the date of the retirement till the date of actual disbursement, as expeditiously as



possible and in any event, before the expiry of three months from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is allowed. No costs. '

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9. After having considered these submissions and the factual matrix of these cases, this Court feels that, no deviation can be made by this Court in these cases alone as in number of such writ petitions, orders that of the one as has been extracted above have been passed by this Court and those orders in many cases have been confirmed by the respective Hon'ble Division Benches of this Court. When that being the position, this Court is not impressed with the submission made by the learned counsel appearing for the respondents for avoiding the payment of interest payable to the petitioners/employees for the belated payment on retiral benefits.

10. More over, since 6% interest per annum is a very minimal interest which alone since has been directed to be paid in all these cases, this Court also feels that, it is not on a higher side to claim such interest.

11. For all these reasons, I am inclined to dispose of these writ petitions with the following directions:

'(i) that in these cases, the respondent is hereby directed to calculate the interest payable to the petitioners for the belated payment of retiral benefits and such interest shall be calculated at the rate of 6% per annum and the petitioners are entitled to get such interest from the date of the retiral benefits are actually become due till the date of payment.

(ii) Accordingly, the calculated interest shall be paid by the respondent Transport Corporation to the respective petitioners within a period of three (3) months from the date of restoration of normalcy after COVID-19 situation.

(iii) It is made clear that, for the three months period as well as the COVID-19 period, the petitioners are not entitled to get interest in view of the aforesaid peculiar situation faced by the respondent Transport Corporation.

12. With these directions, these writ petitions are disposed of. No costs. It is further made clear that, after restoration of normalcy from the COVID 19 period, within three months period now fixed by this Court, if interest to be calculated in this regard is not paid, as indicated above, further penal interest of 18% per



annum shall be charged from the respondent Corporation at the end of the three months period.

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Sd/-

Deputy Registrar (LA&M)

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Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

+2 CC to Mr.P. BALASUBRAMANIAN, Advocate (SR-13752, 13753[F] dated 06/08/2020)

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VB (01.09.2020) 5P 3C