



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5428 of 2021

M.Chitrambalam

... Petitioner

-vs-

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Vazhuthareddy,
Villupuram - 605 602.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram Division,
Karaipettai,
Kancheepuram - 631 552.

3. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay the interest amount for delayed payment and as per the Wages Settlement No.C1/036966/2017 dated 04.01.2018 to pay difference in gratuity, difference in surrender leave amount and difference in commutation amount with 9% interest per annum, as per the petitioner's representation dated 11.03.2020.

For Petitioner : Mr.R.Anbalagan

For Respondents : Mr.C.S.K.Sathish

ORDER

Petitioner herein, who retired from the services of the Respondent Corporation on reaching the age of superannuation, has come up with the above Writ Petition seeking a direction to the respondents to pay interest amounts for delayed payment and as per the Wages Settlement No.C1/036966/2017 dated 04.01.2018 to pay difference in Gratuity, Surrender Leave Salary and



Commutation of Pension amount with 9% interest per annum, as per his representation dated 11.03.2020.

2. Mr.C.S.K.Sathish, learned counsel takes notice on behalf of the respondents. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3. It is an accepted position of law that, Gratuity and Pension are not bounties. The concern expressed by the Hon'ble Supreme Court that, retirement dues must be paid in time, is reflected in the case of Dr.Uma Agarwal vs. State of U.P., reported in (1999) 3 SCC 438, relevant portion of which, reads as under:

"5.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 after all, grant of pension is not a bounty but a right of the government servant. The 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 even 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."

4. To understand the need for timely payment of retirement dues, it is appropriate to consider the time limit prescribed under Section 4 of the Payment of Gratuity Act, 1972, which reads as under:

"4.Payment of gratuity:

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for



WEB COPY

not less than five years,

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease;

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to the heirs.

Explanation.- For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) to (6)"

5. Rule 45-A of the Tamil Nadu Pension Rules, 1978 provides that, interest shall be payable on the belated payment beyond a period of two months from the date of retirement of a Government Servant.

6. A Division Bench of this Court in the case of Government of Tamil Nadu vs. M.Deivasigamani, reported in 2009 (3) MLJ 01, has held that, an employee is entitled to interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions or guidelines and that, he can claim interest under Part III of the Constitution of India, relying on Articles 14, 19 and 21 of the Constitution of India.

7. In similar circumstances, the First Bench of this Court has rendered a judgment dated 12.06.2015 in W.A.(MD) Nos.383 to 457 of 2015, issuing direction to the Transport Corporation to settle the terminal benefits of its employees in equal monthly instalments and to pay 6% interest on the terminal benefits payable to the employees.

8. Therefore, from the above decision, it is amply clear that, belated payment of retirement benefits attract interest,



will be entitled to claim interest on the same at the rates, as held by the Division Bench of this Court (supra).

The Writ Petition is disposed of accordingly. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS VIII)

/TRUE COPY/

Sub-Assistant Registrar

rsi
To:

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Vazhuthareddy,
Villupuram - 605 602.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram Division,
Karaipettai,
Kancheepuram - 631 552.
3. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House, Pallavan Salai,
Chennai - 600 002.

+1CC TO MR.R.ANBALAGAN, ADVOCATE, SR.NO. 14736

W.P.No.5428 of 2021

PL(CO)
KKN 28.04.2021