

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.8581 OF 2021

K.Durairaj

.. Petitioner

Versus

The Management of
Tamil Nadu State Transport Corporation
(Kovai) Ltd.,
Rep. by its Managing Director
Coimbatore.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to pay interest to the petitioner at the rate of 18% per annum, for the period of delay from 01.09.2019 to 24.01.2021, in paying the amounts paid towards the petitioner's terminal benefits namely EPF Employee's Contribution, Gratuity and Encashment of Earned / Sick Leave within a time frame as may be fixed by this Hon'ble Court and without affecting the petitioner's right to claim balance amounts towards those benefits.

For Petitioner : Mr.V.Ajoy Khose
For Respondent : Mr.A.Sundaravadhanan
Standing Counsel

O R D E R

Mr.A.Sundaravadhanan, learned Standing Counsel, takes notice on behalf of the respondent. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

2.This Writ Petition has been filed by the petitioner seeking for a direction to the respondent to pay interest for the period of delay from 01.09.2019 to 24.01.2021 in paying the amounts paid towards terminal benefits, namely, EPF Employee's Contribution, Gratuity and Encashment of Earned / Sick Leaves.

3.The petitioner has joined the services of the respondent / Transport Corporation on 22.02.1989 as Driver. He was retired from service on 31.08.2019 as Special Grade Driver on attaining the age of superannuation. However, his terminal benefits, namely EPF, Gratuity and leave salary etc., were paid only on 24.01.2021, after a lapse of 17 months from the date of his retirement. Seeking interest for the belated payment, the petitioner is before this Court.

4.Heard the submissions made on either side.

5.It is well settled in very many cases that the employee is entitled to interest for the belated payment of his retiral benefits. A Division Bench of this Court in GOVERNMENT OF TAMIL NADU, REP. BY ITS SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT VS. M.DEIVASIGAMANI [2009 (3) MLJ 01] has held that the 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, relying on Articles 14, 19 and 21 of the Constitution.

6.In a similar circumstance, the First Bench of this Court in W.A.(MD) Nos.383 to 457 of 2015 on 12.06.2015, directed the respondent / Transport Corporation to settle the terminal benefits of its employees in equal monthly installments and to pay 6% interest on the terminal benefits payable to the workman. It has also held that the workman is entitled to 18% interest for the defaulted period of installments.

7.Following the above judgments, a learned Single Judge of this Court in W.P.No.15886 of 2020 on 19.01.2021, directed the respondent/ Transport Corporation to pay interest @ 6% per annum, for the belated payment of gratuity and other retiral benefits.

8.Considering the facts and circumstances of the case and also considering the period of delay, this Court is inclined to grant interest @ 4% per annum, for the belated payment of gratuity, leave salary and commutation of pension amount that are yet to be settled, in six equal monthly installments, commencing from 01.06.2021. In case of delay in making installments within the time stipulated supra, the interest payable could be 10% for the delayed period to be recovered from the Officer responsible for disbursement of the amount.

9.It is made clear that the aforesaid direction to pay interest would not preclude the petitioner / workman to question the computation of any of the terminal benefits, if the same is paid lesser than the amount to which, he is entitled to receive. Likewise, if the petitioner has any grievance that he is

entitled to interest for the amount already settled, he can agitate the same as per law, if he is entitled.

10.The Writ Petition is disposed of with the above observation and direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

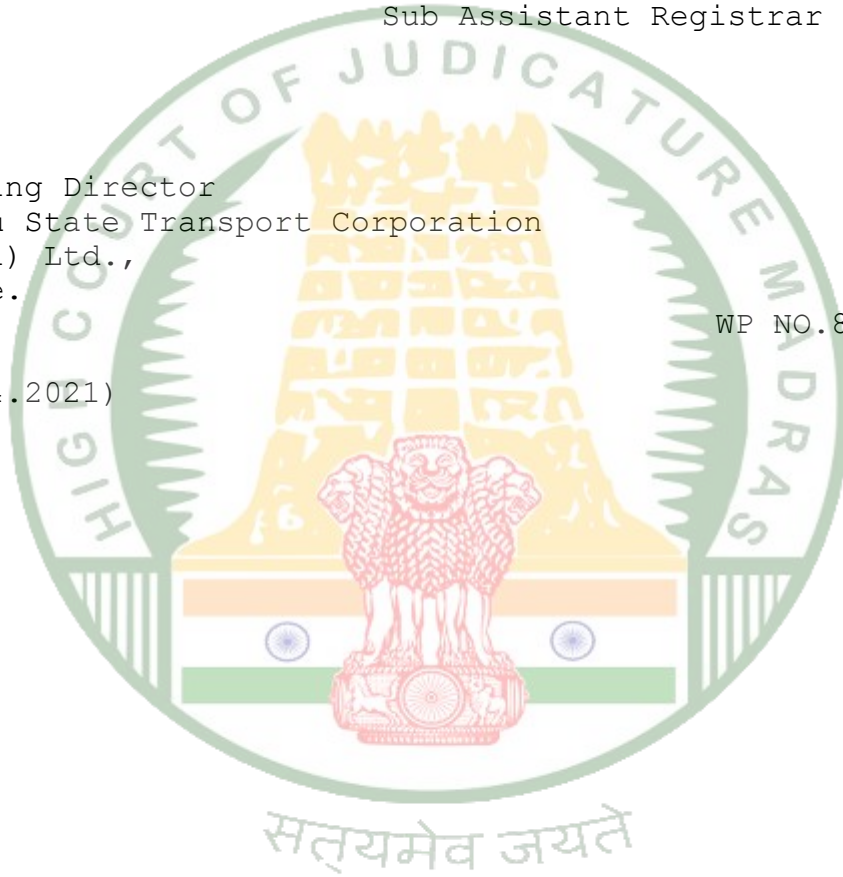
Sub Assistant Registrar

TK
To

The Managing Director
Tamil Nadu State Transport Corporation
(Kovai) Ltd.,
Coimbatore.

WP NO.8581 OF 2021

A.SK(21.04.2021)



WEB COPY