



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.Nos. 13679, 13680, 13683, 13685, 13686 and 13689 of 2021

W.P.Nos. 13679 of 2021:

J. Anbarasu

..Petitioner

Versus

1.The Tamil Nadu State Transport Corporation (Villupuram) Limited,  
Represented by its Managing Director,  
3/137, Salamedu,  
Villupuram - 605 602.

2.The General Manager,  
Tamil Nadu State Transport Corporation,  
(Villupuram) Limited,  
Vellore Region,  
Rangapuram,  
Vellore - 632 09.

3.Tamil Nadu State Transport Corporation,  
Employees' Pension Fund Trust,  
Rep. by its Administrator,  
Thiruvalluvar Illam, Pallavan Salai,  
Chennai - 600 002.

... Respondents

W.P.Nos. 13680 of 2021:

K.Mahendran

S/o. Kasi

..Petitioner

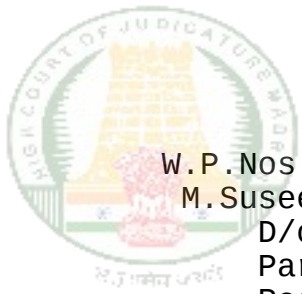
Versus

1 Tamil Nadu State Transport,  
Corporation (Villuoram) Ltd. Rep by its  
Managing Director, 3 / 137 Salamedu,  
Villupuram 605 602.

2 The General Manager,  
Tamil Nadu State Transport Corporation,  
(Villupuram) Ltd Vellore Region,  
Rangapuram, Vellore 632 009.

3 Tamil Nadu State Transport Corporations  
Employees Pension Fund Trust  
Rep by its Administrator, Thiruvalluvar Illam,  
Pallavan Salai, Chennai 02.

.. Respondents



W.P.Nos. 13683 of 2021:

M.Suseela

D/o. Munusamy, 7/105 Pilayar Koil street,  
Parasuramanpati village, Gudiyatham R.S.  
Post, Gudiyatham 635 803.

..Petitioner

Versus

1 Tamil Nadu State Transport  
Corporation (Villuoram) Ltd.,  
Rep by its Managing Director,  
3 / 137 Salamedu,  
Villupuram 605 602.

2 The General Manager,  
Tamil Nadu state Transport Corporation,  
(Villupuram) Ltd., Vellore Region,  
Rangapuram, Vellore 6321 009.

.. Respondents

W.P.Nos. 13685 of 2021:

G.Jayaganesan

S/o. Gopalan,  
6 / 20 Kesava Pillai 3rd Cross street,  
Sainathapuram, Allapuram Post,  
Vellore 632 001

..Petitioner

Versus

1 Tamil Nadu State Transport Corporation (Villuoram) Ltd.  
Rep by its Managing Director, 3 / 137 Salamedu,  
Villupuram 605 602.

2 The General Manager,  
Tamil Nadu State Transport Corporation,  
(Villupuram) Ltd. Vellore Region,  
Rangapuram, Vellore 632 009.

3 Tamil Nadu State Transport Corporations,  
Employees Pension Fund Trust  
Rep by its Administrator, Thiruvalluvar Illam,  
Pallavan Salai, Chennai 02.

.. Respondents

W.P.Nos. 13686 of 2021:

A.Gajendran

S/o. Adhimoolam,  
4 / 143 Gangai Amman Koil Street,  
Eachankadu Village, Ladapuram Post,  
Arcot Taluk, Vellore 632 503.

..Petitioner

Versus



- 1 Tamil Nadu State Transport Corporation,  
(Villuoram) Ltd.  
Rep by its Managing Director,  
3 / 137 Salamedu, Villupuram 605 602.

- 2 The General Manager,  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd, Vellore Region, Rangapuram,  
Vellore 632 009.

- 3 Tamil Nadu State Transport Corporations,  
Employees Pension Fund Trust,  
Rep by its Administrator, Thiruvalluvar Illam,  
Pallavan Salai, Chennai 02. .. Respondents

W.P.Nos. 13689 of 2021:

R.Senji

S/o. Raji Naicker, 5 / 80, Mandiri Street,  
V.K.Mangadu, Palaya Mangadu Post, Arcot Taluk,  
Vellore 632 503. ..Petitioner

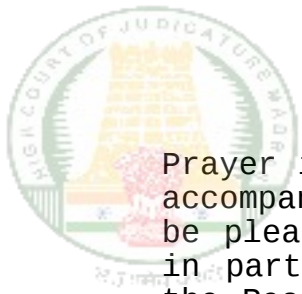
Versus

- 1 Tamil Nadu State transport Corporation,  
(Villuoram) Ltd.  
Rep by its Managing Director, 3 / 137 Salamedu,  
Villupuram 605 602.

- 2 The General Manager,  
Tamil Nadu State Transport Corporation,  
(Villupuram) Ltd Vellore Region, Rangapuram,  
Vellore 632 009.

- 3 Tamil Nadu State Transport Corporations,  
Employees Pension Fund Trust,  
Rep by its Administrator, Thiruvalluvar Illam,  
Pallavan Salai, Chennai 02. .. Respondents

Prayer in W.P.Nos. 13679 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pay the petitioner interest at the rate of 6% p.a. for the belated payment of his gratuity, earned leave salary and commuted value of pension and also to pay the petitioner a sum of Rs.31660/- towards difference in gratuity and a sum of Rs.15,925/- towards difference in earned leave salary, together with interest at the rate of 6% till the amounts are actually paid, within a specified time as may be fixed by this Court.



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Prayer in W.P.Nos. 13680 of 2021: For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS Directing the Respondents to pay the petitioner interest at the rate of 6 percent per annum for the belated payment of his gratuity, earned leave salary and commuted value of pension and also to pay the petitioner a sum of Rs.20,978/- towards difference in gratuity and a sum of Rs. 9,070/- towards difference in earned leave salary together with interest at the rate of 6 percentage per annum till the amount are actually paid within a specified time as may be fixed by this Hon'ble Court, Award Costs and thus render justice.

Prayer in W.P.Nos. 13683 of 2021: For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS Directing the Respondents to pay the petitioner interest at the rate of 6 percent per annum for the belated payment of his gratuity earned leave salary and also to pay the petitioner a sum of Rs.14,997/- towards difference in earned leave salary and Rs. 31,855/- towards difference in gratuity together with interest at the rate of 6 percentage till the amounts are actually paid within a specified time as may be fixed by this Hon'ble Court, Award Costs and thus render justice.

Prayer in W.P.Nos. 13685 of 2021: For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS directing the Respondents to pay the petitioner interest at the rate of 6 percent per annum for the belated payment of his gratuity earned leave salary and commuted value of pension and also to pay the petitioner a sum of Rs.43,598/- towards difference in gratuity and a sum of Rs. 15,382/- towards difference in earned leave salary together with interest at the rate of 6 percentage per annum till the amounts are actually paid within a specified time as may be fixed by this Hon'ble Court, Award Costs and thus render justice.

Prayer in W.P.Nos. 13686 of 2021: For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS directing the Respondents to pay the petitioner interest at the rate of 6 percent per annum for the belated payment of his gratuity earned leave salary and commuted value of pension and also to pay the petitioner a sum of Rs.40,866.50/- towards difference in gratuity and a sum of Rs. 15,032/- towards difference in earned leave salary together with interest at the rate of 6 percentage



till the amounts are actually paid within a specified time as may be fixed by this Hon'ble Court, Award Costs and thus render justice.

Prayer in W.P.Nos. 13689 of 2021: For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS Directing the Respondents to pay the petitioner interest at the rate of 6 percent per annum for the belated payment of his gratuity and commuted value of pension and also to pay the petitioner a sum of Rs.25,601/- towards difference in gratuity together with interest at the rate of 6 percent per annum till the amount are actually paid within a specified time as may be fixed by this Hon'ble Court, Award Costs and thus render justice.

For Petitioner : Mr. R. Krishnasamy  
For Respondents : Mr. C.S.K. Sathish  
Standing Counsel

#### COMMON ORDER

Since all these writ petitions involve one and the same issue, they are being disposed of in common.

W.P.No. 13679 of 2021, is filed by the petitioner seeking for issuance of a Writ of Mandamus directing the respondents to pay the petitioner interest at the rate of 6% p.a. for the belated payment of his gratuity, earned leave salary and commuted value of pension and also to pay the petitioner a sum of Rs.31660/- towards difference in gratuity and a sum of Rs.15,925/- towards difference in earned leave salary, together with interest at the rate of 6% till the amounts are actually paid, within a specified time as may be fixed by this Court.

2. In this context, a Division Bench of this Court, in the decision in Government of Tamil Nadu, represented by the Secretary to Government, Revenue Department and another vs. M. Deivasigamani, (2009) 3 MLJ 1, has categorically stated that an employee is entitled to claim interest for belated payment of pension and other retiral benefits in the absence of any Statutory Rule, Administrative Instruction or Guideline. Further, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution of India. In Para No.6, it was held thus:-

6. The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the Supreme Court



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in S.K. Duew vs. State of Haryana (2008) 3 SCC 44. In the reported case, the appellant therein was served with three charge sheets/show cause notices in June 1998, few days before his retirement. However, he retired on 30.06.1998 on reaching the age of superannuation. He was paid provisional pension, but other retiral benefits were not given to him, which included commuted value of pension, leave encashment, gratuity, etc., They were withheld till the finalisation of disciplinary proceedings. While answering the issue as to whether the appellant therein was entitled to interest on delayed payment of retiral benefits, in the absence of any statutory rules, administrative instructions or guidelines, the Supreme Court at Paragraph 14 of the judgment, held as follows:-

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in the absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of 'bounty' is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."

7. In view of the judgment of the Supreme Court, it is now well settled 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 he can make his claim for interest, under Part III of the Constitution, relying on Articles 14, 19 and 21 of the Constitution.

3. Similarly, in the decision in D.P. Selvaraj vs. Government of Tamil Nadu, rep. by the Secretary to Government, Finance (T & A1) Department, Chennai, (2009) 5 MLJ 1361, a learned single Judge of this Court held that when there is a delay in disbursement of the retirement benefits, the Government servant is entitled to receive interest on the belated payment



of retiral benefits, particularly when the delay is not on the part of the employee. In Para No.8, it was held as follows:-

"8. Considering the submissions made by the learned counsels appearing on behalf of the petitioner, as well as the respondent, this Court finds that nothing has been shown by the learned counsel appearing on behalf of the respondent to deny the claims made on behalf of the petitioner. Further, the learned Government Advocate appearing for the respondent has not been in a position to show that the delay in payment of the arrears of the retiral benefits is due to the petitioner. In such circumstances, the respondent is directed to pay the arrears of the retiral benefits, due to the petitioner, along with the interest at the rate of 12% per annum from the date when the amounts fell due till the date of its actual payment. Such payment shall be made within a period of twelve weeks from the date of receipt of a copy of this order."

4. The above decisions are squarely applicable to the facts of this case. In this case, admittedly, the delay is only on the part of the respondents and not on the part of the petitioner and therefore, the petitioner is entitled to the benefit of interest.

5. Taking into account the prevailing COVID-19 Pandemic situation, this Court is of the view that the petitioner is entitled to get interest at the rate of 4% per annum from the date when the amounts fell due till the date of actual payment. However, this Court is unable to give any positive direction with regard to payment of difference in gratuity and difference in leave salary and it is for the respondents to take a decision thereon.

6. Accordingly, these Writ Petitions are disposed of. With regard to payment of gratuity and leave salary, it is open to the petitioner to pursue his case. If the respondents have no dispute with regard to the petitioner's entitlement, the same is also to be disbursed of within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-  
Assistant Registrar

// True Copy //

Sub Assistant Registrar

msm



To

1.The Managing Director,  
Tamil Nadu State Transport  
Corporation (Villupuram) Limited,  
3/137, Salamedu,  
Villupuram - 605 602.

2.The General Manager,  
Tamil Nadu State Transport Corporation,  
(Villupuram) Limited, Vellore Region,  
Rangapuram, Vellore - 632 09.

3.Tamil Nadu State Transport Corporation,  
Employees' Pension Fund Trust,  
Rep. by its Administrator,  
Thiruvalluvar Illam, Pallavan Salai,  
Chennai - 600 002.

+6CCs to Mr.V.Ajay Khose, Advocate, SR.Nos. 35709, 35710, 35711,  
35712, 35713, 35714

+6CCs to Mr.C.S.K.Sathish, Advocate, SR.Nos. 36055, 36059, 36060,  
36056, 36057, 36058

W.P.No. 13679 of 2021

PM(CO)  
B.VC (01/10/2021)