IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.12.2021

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.24004 of 2021

P.Srinivasan ...Petitioner

Vs.

1.The State of Tamil Nadu represented by
its Principal Secretary,
Transport Department,
Fort St.George, Chennai -9

2.The Managing Director,
State Express Transport Corporation (TN) Ltd,
Chennai - 600 002.

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

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to pay interest at the rate of 6% per annum for the belated payment of leave salary, Provident fund, gratuity and commutation as sought for in his representation dated 20.10.2021 within a time to be stipulated by this Court.

For Petitioner .. Mr.L.Chandrakumar
For Respondents .. Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R.1 & R.3
Mr.K.Kathiresan for R.2

ORDER

In this writ petition, the prayer is for the grant of interest for the belated settlement of retirement benefits like P.F, Gratuity, and encashment of Earned Leave/sick leave etc. As a matter of fact, this Court, both Single Judges and Division

Benches dealt with such prayer earlier for payment of interest for the belated settlement of retirement benefits to the retired transport employees.

2.The Courts have been granting payment of interest @ 4% or 6% as the case may be. In some cases, the Division Bench of this Court has granted 6% interest and in few other cases this Court has granted 4% interest. On the whole, this Court finds that, there is no consensus as to whether 4% or 6% to be granted in such matters where the employees have been settled their retirement benefits belatedly due to resource crunch faced by the State Corporation.

3. Today, when this writ petition has been taken up for hearing, there was a clamour for claiming higher interest of 6 percent and it was also opposed by the counsel who is representing the corporation. According to him, in a recent decision of the learned Judge of this Court in W.P.No.23229 of 2021 dated 28.10.2021, after taking into account the various earlier orders, has granted only 4 percent interest. Per contra, the learned counsel Mr.L.Chandrakumar would rely on a decision of the Division Bench of this Court in W.A.(MD).No.1349 & 1350 of 2021 dated 12.07.2021, wherein there was a direction to pay 6% interest. A learned Judge of this Court following the above Division Bench Judgment in Writ Appeal No.1349 & 1350 of 2021, in a batch of Writ Petitions in W.P.Nos.15636, 15640, 15647, 15651, 15654 & 15656 of 2021 dated 29.07.2021 has once again granted 6% interest for the delayed payments. One other learned Judge of this Court vide order dated 02.07.2021 in W.P.No.10553 of 2021 has ordered 6% interest. Therefore, learned counsel appearing on behalf of the petitioner would pray for 6% interest as majority of the judges have granted the same.

4.At this learned counsel representing the Corporation uniformly submitted that already the Corporation has suffered huge losses due to Covid-19 situation prevailing in State for more than 20 months. The Corporation would be unable to mobilize and come up with funds to pay 6% interest. The Corporation is already facing severe financial strain, and unable to sustain itself and any further increase in the percentage of interest to be paid to the employees, it would result in severe financial burden on the corporation, which the Corporation would be unable to bear. The Corporation would also have to take into consideration the serving employees and the retiring employees also in future. Therefore, a passionate request has been made before this Court for grant of 4% interest which should be reasonable and fair to compensate belated payments made to the retired employees.

5. In consideration of the request emanating from the learned Standing counsel for the Corporation, which appear to this Court to be fair and reasonable considering the weak financial position of the Corporation, this Court persuaded the learned counsel appearing for the petitioner to accept 4% interest. All the counsels who are representing the parties today have uniformly accepted 4% interest to be payable on the belated payments made to the petitioner. During the course of argument it is also agreed by all the counsel of the corporation that the 4% interest payable would be settled in one lump-sum, if 8 weeks time is granted to the Corporation.

6.In view of the consensus being reached by the parties, this writ petition is disposed of with the following directions;

> The Corporation is directed to pay 4% interest to all the employees who have been settled belatedly their retirement benefits within a period of 8 weeks from the receipt of copy of order of this Court. In case, some of the employees who have not been settled their portion of the retirement benefits as such are also entitled to be paid 4% interest till they receive the actual retirement benefits in full.
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> Those payments would also carry 4% till the date it is fully released by the corporation. The interest of 4% would cover the period of 8 weeks from the date of receipt of copy of this order.
>
> Any further default of the payments by the corporation, the interest would be enhanced to 6 percent after the expiry of 8 weeks of period of time and such percentage would become payable till the entire amounts are settled to the employees concerned.

7. This Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

gsk/tri

To

1.The Principal Secretary,
Transport Department,
Fort St.George, Chennai -9

2.The Managing Director,
State Express Transport Corporation (TN) Ltd,
Chennai - 600 002.

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

+1cc to the Government Pleader, SR.No.69059

W.P.No.24004 of 2021

SJ(CO)
CB(21/01/2022)