



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.NOS.26446, 26449, 26451, 26453, 26454, 26455, 26458, 26471,
26473, 26476, 26477, 26549, 26552, 26554, 26557 & 26559 OF 2021

K.NATARAJ

... PETITIONER in WP No.26446 of 2021

S.MUTHURAJ

... PETITIONER in WP No.26449 of 2021

T.SAKTHIVELU

... PETITIONER in WP No.26451 of 2021

K.NATARAJAN

... PETITIONER in WP No.26453 of 2021

T.SOUNDARARAJAN

... PETITIONER in WP No.26454 of 2021

K.NAGARAJ

... PETITIONER in WP No.26455 of 2021

A.NOORMOHAMED

... PETITIONER in WP No.26458 of 2021

K.KARUNAKARAN

... PETITIONER in WP No.26471 of 2021

G.NATARAJAN

... PETITIONER in WP No.26473 of 2021

A.SUBRAMANIAN

... PETITIONER in WP No.26476 of 2021

S.BASKARAN

... PETITIONER in WP No.26477 of 2021

P.SHANMUGASUNDARASAMY

... PETITIONER in WP No.26554 of 2021



V.MARUTHAMUTHU

C.PONNUSAMY

M.SHANMUGAM

A.SHANMUGAM

... PETITIONER in WP No.26552 of 2021

... PETITIONER in WP No.26549 of 2021

... PETITIONER in WP No.26557 of 2021

... PETITIONER in WP No.26559 of 2021

Vs.

1. The Management of Tamilnadu State
Transport Corporation (Kovai) Ltd.,
Erode Region.,
Rep. by its Managing Director.,
Erode.
2. The Management of Tamil Nadu State
Transport Corporation (Kovai) Ltd.,
Coimbatore Region,
Rep by its Managing Director,
Coimbatore.
3. The Administrator
Tamilnadu State Transport Employees Pension
Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai 2.

...Respondents in the respective WPs.

Common Prayer in W.P.Nos. 26446, 26449, 26451, 26453, 26454, 26455, 26458, 26471, 26473, 26476 & 26477 of 2021:

Writ Petitions filed under article 226 of the Constitution of India prayed to issue a Writ of Mandamus, directing the respondent to pay the petitioner the amount payable towards the encashment of 45, 45, 105, 120, 45, 90, 45, 60, 90, 90 & 90 days of earned leaves respectively, surrendered by them in the years before their retirement as admitted by the respondent, either based on their monthly wages of the respective months of surrender of those earned leaves, together with 18 percentage interest p.a. from the respective due dates or based on the monthly wages payable on the month of their retirement, together with 18 percentage interest from the date of their retirement, respectively within a time frame as may be fixed by this Court.



Common Prayer in W.P.Nos. 26549, 26552, 26554, 26557 & 26559 of 2021:

Writ Petitions filed under article 226 of the Constitution of India prayed to issue a Writ of Mandamus, directing the respondents to pay the petitioners interest at the rate of 18 percentage per annum, for the period of delay i) from 01.05.2020 to 01.06.2021, in paying the amounts paid towards the terminal and pension benefits of the petitioner namely EPF Employees Contribution, Gratuity, Encashment of Earned / Sick Leaves and Commutated Value of Pension, within a time frame as may be fixed by this Honourable Court and without affecting his right to claim balance amounts towards those benefits in W.P.Nos. 26549, 26552, 26554 and 26559 of 2021 respectively and

ii) from 01.04.2020 to 01.06.2021, in paying the amounts paid towards the terminal and pension benefits of the petitioner namely EPF Employees Contribution, Gratuity, Encashment of Earned / Sick Leaves and Commutated Value of Pension, within a time frame as may be fixed by this Honourable Court and without affecting his right to claim balance amounts towards those benefits in W.P.No.26557 of 2021.

For Petitioner	..	Mr.V.Ajoy Khose (in all Wps)
For Respondents	..	Mr.A.Sundaravadanam, Standing Counsel (in all Wps)

COMMON ORDER

In these writ petitions, 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 batch of writ petitions have been taken up for hearing, there was a clamour for claiming higher interest of 6 percent and it was also opposed by the counsels who are representing the corporations. According to them 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.Ajay khoshe 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 counsels appearing on behalf of the petitioners would pray for 6% interest as majority of the judges have granted the same.

4.At this learned counsels representing the Corporation uniformly submitted that already the Corporations have suffered huge losses due to Covid-19 situation prevailing in State for more than 20 months. The Corporations would be unable to mobilize and come up with funds to pay 6% interest. The Corporations are 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 Corporations would be unable to bear. The Corporations 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 counsels for the Corporations, which appear to this Court to be fair and reasonable considering the weak financial position of the Corporations, this Court persuaded the learned counsels appearing for the petitioners 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 petitioners. During the course of argument it is also agreed by all the counsels 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, these writ petitions are 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.

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. All these Writ Petitions stand disposed of accordingly.
No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mrm/tri

To

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



3. The Administrator
Tamilnadu State Transport Employees Pension
Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai 2.

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+3ccs to Mr.V.Ajoy Khose, Advocate, S.R.Nos.66923 to 66925

+5ccs to M/s.A.Sundaravadanan, Advocate, S.R.Nos.66834 to 66838

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AJS (CO)
RLP (28/01/2022)