BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE M.DHANDAPANI
W.P.[MD]No.6736 of 2021

K.Raghu ... Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
Thirunelveli Division,
Thirunelveli - 627 011.

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai - 600 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay 18% interest for the belated payment of terminal benefits of PF, Gratuity, Commutation and Unavailed Leave Salary, payable to the petitioner from the date of his retirement ie., 30.06.2019, to till the date of actual payment made to him ie., 22.01.2021 and all other attendant benefits to him within the stipulated period.

For Petitioner : Mr.A.K.Thangavelu
For Respondents 1&2 : Mr.R.Rajamohan,
Standing Counsel

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. Aggrieved against the belated settlement of the terminal benefits to the petitioner, the petitioner has claimed interest on the belated payment by filing this Writ Petition.

3. The learned Counsel for the petitioner submits that even in the absence of any statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution. In support of his submission, the learned Counsel relied upon the judgment of the Hon'ble Supreme Court in the case of ***S.K.Dua Vs. State of Haryana & Anr. dated 09.01.2008,*** wherein it has been held as follows:

"11. ....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."*

4. The learned Counsel for the petitioner also submits that the above judgment has been followed by the Division Bench of this Court in ***W.A.No.886 of 2007 dated 17.12.2008.***

5. Mr.R.Rajamohan, learned Standing Counsel appearing for the respondent Corporation submits that owing to the Covid-19 pandemic situation and non-plying of buses for a considerable time, there has been a heavy revenue loss for the Corporation and it would be difficult for the Transport Corporation to pay the interest for belated payment of terminal benefits.

6. This Court paid its undivided attention to the submissions advanced by the learned counsel on either side and also perused the decisions in relation to the subject matter in issue.

7. There is no dispute with regard to the ratio on the subject relating to payment of interest on belated payment of the dues on the retirement of an employee. Even in the absence of any statutory rules or administrative instructions or guidelines, an employee could claim interest as per Part III of the Constitution. However, it is to be pointed out that interest could be claimed only on the belated payment of statutory dues, to which an employee is entitled. In this regard, it is to be pointed out that an employee would be entitled to interest for the belated settlement of Death-cum-Retirement Gratuity and pensionary benefits and an employee cannot, as a matter of right, claim interest for every payment that is due to him, which is not a statutory obligation on the part of the employer to pay. In such view of the matter, this Court is of the view that an employee would be entitled to interest on the Death-cum-Retirement Gratuity in terms with the provisions of the Payment of Gratuity Act and also on the pensionary benefits, if an employee covered under the pension scheme. On the other dues, an employee cannot claim interest as a matter of right as the same would not stand covered under Part III of the Constitution. However, if the

rules or standing instructions of the employer permit payment of interest on belated payment of other dues, an employee could invoke the said provisions for claiming interest.

8. In the case on hand, it is the stand of the respondents that the Transport Corporation has incurred a heavy loss on account of the Covid-19 pandemic situation due to the non-plying of the buses for a considerable period of time and, therefore, payment of interest would be an additional burden on the respondents. Though such a stand has been taken by the respondents to negate the claim of interest by the petitioner, however, the said stand of the respondents could be considered affirmatively only insofar as dues which are not statutory dues; but insofar as the statutory dues, viz., payment of gratuity, the respondents are bound to pay interest in terms of the provision under the Payment of Gratuity Act.

9. In the case on hand, the petitioner had retired in June, 2019 and the respondents have settled the dues of the petitioner during January, 2021. It is to be borne in mind that the entire world is facing a calamitous situation in the form of Covid-19 pandemic, since March, 2020, which had brought to a grinding halt even the strongest of economies of the world superpowers. There definitely is a short period of time, beyond the statutory period prescribed, when the statutory dues were settled. However, it should be borne in mind that the pandemic had engulfed the entire globe as early as in January and striking our country in March, 2020. In such a scenario, this Court should also be mindful of the fact that our country is a developing economy and putting shackles on the progress by directing payment of interest, even during such a calamitous situation, would only derail the economic development of our country, in such a backdrop, this Court is of the considered view that it would be appropriate if the respondents are directed to pay the interest @ 6% per annum on the belated payment of gratuity alone.

10. For the reasons aforesaid, the writ petition is disposed of with a direction to the respondents to pay the interest to the petitioner at the rate of 6% per annum on the belated payment of gratuity alone, commencing from the date of retirement, till the date of actual disbursement, within a period of twelve [12] weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Thirunelveli Division,
Thirunelveli - 627 011.

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

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-13651[F] dated 25/03/2021)

+1 CC to M/s.A.K.THANGAVELU, Advocate (SR-13808[F] dated 26/03/2021)

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MJ(CO)
KB(24.04.2021) 4P 5C