



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. [MD] .No.20815 of 2021

WEB COPY

G.Sivasankari

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli-627 003.

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

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay interest at the rate of 6% per annum, for the period of delay from 09.04.2018 to 25.09.2019 in paying the amounts paid towards the terminal benefits within a time frame as may be fixed by this Court.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.A.Rajamohan

ORDER

This Writ Petition has been filed seeking a direction to the respondents to disburse the interest at the rate of 6% per annum for the belated payment of retirement benefits of the petitioner's husband.

2. The case of the petitioner is that the petitioner's husband served in the respondents Transport Corporation from the year 1997 and while he was in service, he was expired on 09.04.2018. Thereafter, the petitioner has approached the first respondent and submitted all the relevant documents including legal heir certificate issued by the Tahsildar, Tirunelveli. However, after a lapse of one year five months, the respondent has paid the retirement benefits of her husband on 25.09.2019. Since the benefits have been settled belatedly, the respondents are liable to pay



interest for the belated payment. Therefore, the petitioner gave a representation dated 04.09.2021 to the respondents, but, the same did not evoke any response. Therefore, the petitioner has filed this writ petition for the above said relief.

3. Mr.A.Rajamohan, learned counsel, takes notice on behalf of the respondents and fairly admits that in similar writ petitions, this Court has ordered for payment of interest at the rate of 6% p.a. for the belated payment of retirement benefits and therefore, the petitioner's husband is also entitled for the same relief. However, since the claim was made by the wife of the deceased employee, there was a delay in making the payment, without knowing the legal heir of the deceased employee. Now, it is made clear that other two legal heirs have given consent to make payment to this petitioner and the respondents are taking steps to pay the interest for the belated payment of retirement benefits to the petitioner.

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

5. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. The employer is liable to settle the retirement benefits without any delay and the belated payment is liable to be compensated by way of interest for the belated payment. In this regard, the Hon'ble Apex Court in **S.K.Dua vs. State of Haryana** reported in **2008 (3) SCC 44**, has 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 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 living even without issuing notice to the respondents."



7. Following the same, in similar issue, a Division Bench of this Court, in W.A.(MD)No.403 of 2010, etc. batch, vide common order dated 04.07.2014, has held as follows:

"5. even though there is no provision in the Tamil Nadu State Transport Corporation Employees Pension Fund for payment of interest, cannot stand in the light of the law laid down by the Supreme Court in S.K.Dua v. State of Haryana and another, reported in (2008) 3 SCC 44. As a matter of fact, the Rules do not contemplate belated payment of retirement benefits. The Rules contemplate prompt payment. When the Rules contemplate prompt payment and not belated payment, the Rules will not contain a provision for payment of interest. The Pension Fund which was created as a Trust by the Corporation was supposed to act in trust for the employees' benefit. If the Trust could not make payments within the time stipulated, then, irrespective of whether there is any provision for payment of interest or not, the Corporation is obliged to make payment."

The Division Bench has also fixed the rate of interest at 6% p.a.

8. Following the dictum laid down on this issue, the writ petition is disposed of with a direction to the respondents/Transport Corporation to pay interest for the belated payment of retirement benefits at the rate of 6% p.a., from the date of retirement till the date of actual disbursement, within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

To:-

- 1.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli-627 003.



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

+1 CC to M/s.R. RAJAMOHAN, Advocate (SR-36190[F] dated 26/11/2021)

+1 CC to M/s.G.M.XAVIER, Advocate (SR-36328[F] dated 29/11/2021)

W.P. [MD] .No.20815 of 2021
26.11.2021

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