BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos.22134 to 22154 of 2021

WP(MD) NOS.22134 TO 22154 OF 2021

Nallathambi.K	.. Petitioner in WP(MD). 22134/ 2021
Pandian C	.. Petitioner in WP(MD). 22135/ 2021
Srinivasan	.. Petitioner in WP(MD). 22136/ 2021
Ramanathan K	.. Petitioner in WP(MD). 22137/ 2021
Raju. R	.. Petitioner in WP(MD). 22138/ 2021
Pandiyan.T	.. Petitioner in WP(MD). 22139/ 2021
Ravinchandran.N	.. Petitioner in WP(MD). 22140/ 2021
Palanisamy.S	.. Petitioner in WP(MD). 22141/ 2021
Chidambaram.V	.. Petitioner in WP(MD). 22142/ 2021
Chinnasamy.P	.. Petitioner in WP(MD). 22143/ 2021
Rajendran. K	.. Petitioner in WP(MD). 22144/ 2021
Ashokan.A	.. Petitioner in WP(MD). 22145/ 2021
Radha.R	.. Petitioner in WP(MD). 22146/ 2021
Rajendran.P	.. Petitioner in WP(MD). 22147/ 2021
Rengaraj.N	.. Petitioner in WP(MD). 22148/ 2021
Kennedy.T	.. Petitioner in WP(MD). 22149/ 2021
Kumar. M	.. Petitioner in WP(MD). 22150/ 2021
Anbazhagan S	.. Petitioner in WP(MD). 22151/ 2021
Selvarengan D	.. Petitioner in WP(MD). 22152/ 2021
Johnson J	.. Petitioner in WP(MD). 22153/ 2021
Manoharan M	.. Petitioner in WP(MD). 22154/ 2021

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Transport Department,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Kumbakonam,
Thanjavur District.

3.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Periyamilagupaarai,
Trichy Region,
Tiruchirappalli District.

4.The Administrator,
The Tamil Nadu State Transport
Corporation Employees Pension Fund Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai - 600 002. : Respondents in all WPs

COMMON PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to settle interest for the belated payment of the petitioner's retirement benefits along with gratuity, earned leave, medical leave, commutation of pension, provident fund and other retirement benefits payable to the petitioner with 18 % rate of interest.

(In all Wps)

For Petitioner :Mr.N.Sudhagar Nagaraj

For Respondents :Mr.V.Nirmal Kumar,
Government Advocate
for R.1
Mr.D.Sivaraman
for R.2 to R.4

COMMON ORDER

These writ petitions are filed to direct the respondents to settle the interest on the belated payment of Terminal benefits due to the petitioners from the date of retirement till the date of settlement at the rate of 18% per annum.

2. By consent of both the parties, these writ petitions are taken up for final hearing at the admission stage itself.

3. The case of the petitioners is that they served in the respondent Transport Corporation in various positions and retired from service. Their retirement benefits, such as, Gratuity, Provident Fund, leave salary and other benefits, were not settled immediately after their retirement and were settled only after some time. Since the benefits have been settled belatedly, the

respondents are liable to pay interest for the belated payment. Therefore, the petitioners gave representations to the respondents, but, the same did not evoke any response. Hence, the petitioners have filed these writ petitions for the above said relief.

4. Mr.D.Sivaraman, learned Counsel takes notice on behalf of the respondents 2 to 4 / Transport Corporation 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 petitioners are also entitled for the same relief. However, the learned counsel submits that owing to Covid-19 pandemic situation, the Corporation is facing financial difficulties and requested for some time to pay the interest.

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 bleated 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, these writ petitions are disposed of, with a direction to the respondents 2 to 4 / 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 (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Transport Department,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Kumbakonam,
Thanjavur District.

3.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Periyamilagupaarai,
Trichy Region,
Tiruchirappalli District.

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

+21 CC to M/s.D.SIVARAMAN, Advocate (SR-38820[F], 38800,38801,38802,38803,,38804,38805,38806,38807,38808,38809,38810,38811,38812,38813,38814,38815,38816,38817,38818,38819 dated 15/12/2021)

+1 CC to M/s.SPL GP (SR-38831[F] dated 15/12/2021)

W.P(MD) Nos.22134 to 22154 of 2021
14.12.2021

TA(CO)
KB(28.12.2021) 5P 27C