



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22604 of 2021

P.Ramanathan

... Petitioner

versus

1.The Managing Director,
Tamilnadu State Transport
Corporation (KMBU) Ltd.,
27, New Railway Station Road,
Kumbakonam - 612 001.

2.The Financial Advisor,
Tamilnadu State Transport
Corporation (KMBU) Ltd.,
27, New Railway Station Road,
Kumbakonam - 612 001.

3.The Administrator,
TNSTC Employees Pension Trust,
SETC (TN) Ltd.,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to disburse 6% interest for the belated payment of terminal benefit in difference arrears amount of Commutation for Rs.5,21,184/- from 01.02.2021 till the date of actual payment and also to disburse the terminal benefits in difference arrears amount in Gratuity for Rs.70,003/-, Leave Salary for Rs.76,797/- and Provident Fund for Rs.15,650/- due to 7th Pay Commission Revised Wages together with interest at the rate of 6% p.a. payable as per Court direction in one instalment, from 01.10.2016 till the date of actual payment.

For Petitioner : Mr.K.Gokul
For R1 and R2 : Mr.D.Sivaraman
Standing Counsel

ORDER

Today, when the matter is taken up, the learned counsel for the petitioner submits that he is not pressing the second prayer seeking for disbursement of terminal benefits in difference arrears amount in Gratuity, Leave Salary, and Provident Fund as per 7th pay commission, with liberty to file a fresh petition. He has also made an endorsement to that effect.



2. Insofar as the first prayer is concerned, the petitioner seeks a direction to the respondents to settle 6% interest for the belated payment of terminal benefit in difference arrears amount of Commutation for Rs.5,21,184/-.

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3. The case of the petitioner is that he served in the respondent Transport Corporation and retired from service on 31.05.2016. The terminal benefit in difference arrears amount of commutation was settled only on 30.01.2021. Since the terminal benefit in difference arrears amount of commutation was settled belatedly, the respondents are liable to pay interest for the belated payment. Therefore, the petitioner gave a representation dated 01.12.2021 to the respondents, but, the same did not evoke any response. Therefore, the petitioner has filed this writ petition for the above said relief.

4. Mr.D.Sivaraman, learned Standing 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/terminal benefits and therefore, the petitioner is also entitled for the same relief. However, the learned counsel appearing for the respondents submits that owing to Covid-19 pandemic situation, the Corporation is facing financial difficulties and requested for some time to pay the interest.

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

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

7. The employer is liable to settle the retirement/terminal 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."

8. Following the same, in a 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.

9. Following the dictum laid down on this issue, the writ petition is disposed of insofar as the first prayer is concerned. The respondents are directed to pay interest for the belated payment of terminal 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. Insofar as the second prayer is concerned, the writ petition is dismissed as not pressed and liberty is given to the petitioner to file a fresh petition. No costs.

Sd/-

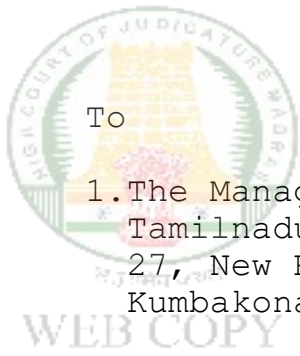
Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.D.SIVARAMAN, Advocate (SR-39846[F] dated 21/12/2021)

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21.12.2021

KK (CO)

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