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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.1388 of 2022

and

W.M.P.No.1517 of 2022

- 1.S.Sundharamurthy
- 2.D.Thirupathi
- 3.R.Palani
- 4.A.Abdul Azeez
- 5.S.Balamurugan
- 6.N.Rajendran
- 7.N.Panneer Selvam
- 8.P.Chandra Sekaran
- 9.K.Chandran
- 10.A.Gunasekaran
- 11.B.Soundararajan
- 12.M.E.Sampath Kumar
- 13.P.Mohan
- 14.R.Selvaraj
- 15.M.Desingu
- 16.N.Dhandapani
- 17.R.Madhavan

...Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Transport Department,
Chennai - 600 009.
2. The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam,
Mount Road, Pallavan Salai,
Chennai - 600 002.
3. The General Manager,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam,
Mount Road, Pallavan Salai,
Chennai - 600 002.
4. The Administrator,
Tamil Nadu State Transport
Corporation Employees pension fund trust,



Thiruvalluvar House,
Pallavan Salai,
Chennai - 600 002.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents to settle the interest for the belated payment of retirement benefits payable to the petitioners with 18% rate of interest within the time frame that may be stipulated by this Hon'ble Court.

For Petitioners.. Mr.N.Sudhagar Nagaraj

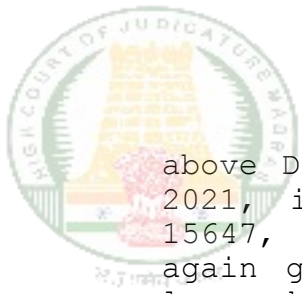
For Respondents.. Mr.L.S.M.Hasan Fizal,
Additional Government Pleader for R1
Mr.K.Moorthy,
Standing Counsel for R.2 & R.3
Mr.C.S.K.Sathish,
Standing Counsel for R4

ORDER

In this writ petition, 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 writ petition has been taken up for hearing, there was a clamour for claiming higher interest of 6 percent and it was also opposed by the counsel who is representing the corporation. According to him, 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.N.Sudhagar Nagaraj 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 Nos.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 counsel appearing on behalf of the petitioners would pray for 6% interest as majority of the judges have granted the same.

4.At this, learned counsel representing the Corporation submitted that already the Corporation has suffered huge losses due to Covid-19 situation prevailing in State for more than 20 months. The Corporation would be unable to mobilize and come up with funds to pay 6% interest. The Corporation is 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 Corporation would be unable to bear. The Corporation 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 counsel for the Corporation, which appear to this Court to be fair and reasonable considering the weak financial position of the Corporation, this Court persuaded the learned counsel 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 the counsel 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, this writ petition is disposed of with the following directions;

(a)The Corporation is directed to pay 4% interest to the employees who have been settled belatedly their retirement benefits within a period of 8 weeks from the date of receipt of a copy of the 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.

(b)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 a copy of this order.



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(c) 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. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk/tri

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Transport Department,
Chennai - 600 009.
2. The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam, Mount Road, Pallavan Salai,
Chennai - 600 002.
3. The General Manager,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam,
Mount Road, Pallavan Salai,
Chennai - 600 002.
4. The Administrator,
Tamil Nadu State Transport
Corporation Employees pension fund trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.M.Sudhagar Nagaraj, Advocate, S.R.No.6386

+1cc to the Government Pleader, S.R.No.6884

W.P.No.1388 of 2022

and

W.M.P.No.1517 of 2022

PL(CO)

RGA(17/02/2022)