



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 2113 of 2019

M.Arokiadoss

...Petitioner

Vs

The Managing Director  
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,  
Vazhuthareddy Post,  
Salamedu, Villupuram - 605 602.

...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the Respondents to pay interest for the belated payment of Gratuity interest at a rate of 9% per annum with effect from 01.07.2012 within the stipulated time as may be fixed by this Court.

For Petitioner : Mr.N.Desinghu

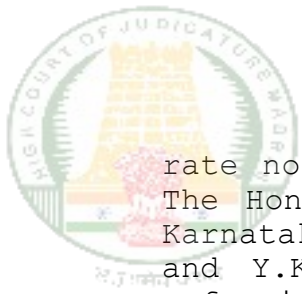
For Respondent : Mr.G.Saravanakumar,  
Standing Counsel

O R D E R

Heard Mr. N.Desinghu, Learned Counsel for the Petitioner and Mr. G.Saravanakumar, Learned Standing Counsel appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, after working as Selection Grade Senior Assistant Engineer in the service of the Respondent, had retired on 30.06.2012, but his gratuity was belatedly paid on 08.05.2015, for which he had made representation dated 24.08.2018 for payment of interest. The Writ Petition has been filed in that regard

3. In this context, reference must at once be made to Section 7(3-A) of Payment of Gratuity Act, 1972, which provides that if the amount of gratuity payable to an employee within 30 days from the date of cessation of his employment is not paid, interest would have to be paid at such rate not exceeding the



rate notified for long term deposits by the Central Government. The Hon'ble Supreme Court of India in H.Gangahanume Gowda -vs- Karnataka Agro Industries Corporation Ltd., [(2003) 3 SCC 40] and Y.K.Singla -vs- Punjab National Bank [(2013) 3 SCC 472] referring to that legal provision has reiterated that there is no discretion to the employer to deny interest for delayed payment of gratuity and only exception for the same would be:-

- (i) when the delay in the payment of gratuity is due to the fault of the employee; and
- (ii) the employer has obtained permission in writing from the Controlling Authority under the Payment of Gratuity Act, 1972, for the delayed payment on this ground.

It also requires to be noticed here that though the Central Government had issued the Notification No. S.O. 847 dated 01.10.1987 fixing the rate of interest for delayed payment of gratuity under Section 7(3-A) of the Payment of Gratuity Act, 1972, at 10% per annum, no modification of the same has been made till date and this Court in General Manager/Administration, Tamil Nadu State Transport Corporation (Kumbakonam) Limited -vs- D.Duraidhanapal (Order dated 01.02.2019 in W.P. (MD) Nos. 2334 to 2357 of 2019) observed as follows:-

"3. The learned counsel appearing for the workmen contended that the orders passed in these writ petitions do not warrant any interference. His submission is that as per Section 7(3A) of the Payment of Gratuity Act, 1972, a notification was already issued by the Central Government and it provides for awarding 10% interest. He would contend that the notification that was issued as early as in 1987 is still holding good and no modification notification has been issued. His specific contention is that the management is not justified in placing reliance on a notification issued by the Central Government setting out the rate for repayment of long term deposit and that a special notification under Section 7(3A) of the Act is required. In as much as the notification earlier issued under this provision is still holding the field, this Court will have to necessarily abide by the same.

4. I am not able to subscribe to the aforesaid submission. As rightly pointed out by the learned Standing Counsel for the management, no doubt, the special notification issued by the Central Government under Section 7(3A) of the Act stipulates awarding of 10% interest and that it has not been modified till date. But then, a notification issued under a statutory provision cannot be applied, if it would run counter to





To

The Managing Director  
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,  
Vazhuthareddy Post,  
Salamedu, Villupuram - 605 602.

Copy to

The Registrar (Judicial),  
Madras High Court,  
Chennai - 600 104.

+1cc to Mr.N.Desinghu, Advocate Sr.No.26873

+1cc to Mr.G.Saravanakumar, Advocate Sr.No.26941

W.P.No.2113 of 2019

JPL(CO)  
RVM(13/06/2022)