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W.P.(MD)NO.895 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.895 of 2021

N.Balasubramanian

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Thambu Samy Road,
Chennai – 600 010.

2. The Regional Manager, TNCSC,
10, Kuruvikkaran Salai,
Madurai – 625 020.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in Se.Mu.AA.No.AD3/50790/15 dated 03.10.2017 by the first respondent and quash the same and direct the respondents to give 18% simple interest for the delayed payment of gratuity (10 months delay) and time.

For Petitioner : Mr.R.Lakshmanan

For Respondents : Mr.G.Mohankumar,
Standing Counsel.

* * *

**ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondents Corporation.

2. The writ petitioner joined the respondent Corporation as Shift Engineer in the year 1981 and retired as Manager (Engineer) in the year 2014. He reached the age of Superannuation on 30.08.2014. Since on the said date certain proceedings were pending against the writ petitioner, he was allowed to retire without prejudice to the pending proceedings. After holding enquiry, the General Manager TNCSC passed an order dated 13.03.2015 imposing punishment of stoppage of increment for a period of one year with cumulative effect. Questioning the same, the petitioner filed an appeal before the first respondent. The first respondent by the impugned order dated 03.10.2017 dismissed the appeal. Challenging the same, this writ petition came to be filed.



3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He raised twofold grounds. The first ground is that in respect of the co-delinquent, lesser punishment was imposed. The other ground is that the respondents are obliged to pay interest on the belated disbursal of the retirement benefits. He called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

4. The respondents have filed a detailed counter affidavit.

5. The learned Standing counsel took me through its contents. He raised quite a few contentions. He pointed out that the writ petition is liable to be dismissed on the ground of laches. The final order was passed way back in the year 2020. The writ petition itself came to be filed on 2021. He would also point out that there is no merit in the contention anchored on discrimination. It is true that the co-delinquent was imposed lesser punishment. But then, he was working as a Shift



Engineer and he was in-charge of only one shift. The petitioner was Manager. Therefore, he cannot seek parity of treatment with the co-delinquent. He would also state that due process of law was followed and only after holding enquiry, the petitioner was found guilty. He would add that the penalty was not fully recovered from the writ petitioner. He pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. No doubt, the writ petition has been filed after a gap of almost three years after the appellate authority passed the order. But on account of this delay in filing the writ petition, the respondents have not suffered any prejudice. The principle of laches has bearing only on the discretion of the Court and does not go to the maintainability of the writ petition. I am therefore of the view that the case deserves to be considered on merits.

8. There is no dispute that the penalty order was passed on 13.03.2015. As the writ petitioner retired on



reaching the age of superannuation on 30.06.2014, the retirement benefits should have been disbursed immediately.

Leave encashment amount was paid only in the year 2020. I am therefore of the view that the respondents are obliged to pay interest on the belated payment. But then it cannot be fixed @ 18% p.a. In the case of Transport Corporation employees, this Court has been consistently ordering payment of interest @ 6% p.a. I do not want to make a departure in the case of the writ petitioner. The respondents are directed to pay interest on the belated disbursement of the retirement benefits @ 6% p.a. The interest amount will have to be paid within a period of eight weeks from the date of receipt of a copy of this order.

9. As regards the penalty, I am not inclined to interfere with the punishment imposed on the petitioner. But then, the learned Standing counsel clarified that though the stoppage of increment was made with cumulative effect, it will not have any bearing on the petitioner's pension.



10. Recording the said submission and with the aforesaid direction to pay interest for the belated disbursement of retirement benefits, this writ petition stands partly allowed. No costs.

13.10.2022

Index : Yes / No

Internet : Yes/ No

PMU

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G.R.SWAMINATHAN,J.

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