



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.1451 of 2022

D.Devairakkam

... Petitioner

versus

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 (Tirunelveli) Ltd.,
Tirunelveli - 627 003.

3.The General Manager,

Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Tirunelveli - 627 003.

4.The Administrator,

Tamil Nadu State Transport Corporation
Employees Provident Fund Trust,
Thiruvalluvar House,
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 settle the interest for the belated payment of retirement benefits, such as Gratuity, Earned Leave, Commutation of Pension, Provident Fund and other retirement benefits payable to the petitioner with interest at the rate of 18% per annum, within the time stipulated by this Court.

For Petitioner : Mr.N.Sudhagar Nagaraj

For R1 : Mr.J.Ashok,
Additional Government Pleader

For R2 to R4 : Mr.R.Rajamohan
Standing Counsel

**ORDER**

This writ petition is filed for a Mandamus, directing the respondents to pay 18% interest to the petitioner for the belated payment of retirement benefits within the time stipulated by this Court.

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2. The case of the petitioner is that he served in the respondent Transport Corporation from the year 1989 and he voluntarily retired from service as Special Grade Driver on 30.10.2018. However, the retirement benefits, namely, Gratuity and Provident Fund were settled to him only on 24.09.2019. Since the benefits have been settled belatedly, the respondents are liable to pay interest for the belated payment. Therefore, the petitioner gave a representation dated 24.11.2021 to the respondents, but, the same did not evoke any response. Therefore, the petitioner has filed this writ petition for the above said relief.

3. Mr.R.Rajamohan, learned Standing Counsel, takes notice on behalf of the respondents 2 to 4 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 petitioner is also entitled for the same relief. However, the learned Standing Counsel appearing for the respondents 2 to 4 submits that owing to Covid-19 pandemic situation, the Corporation is facing financial difficulties and requested for some time to pay the interest.

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

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 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.

8. Following the dictum laid down on this issue, the writ petition is disposed of with a direction to the respondents/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/-

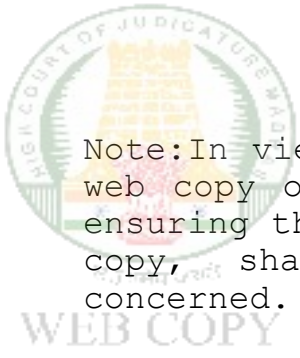
Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Secretary to Government,
Transport Department,
Secretariat,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
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+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-2635[F] dated 27/01/2022)

+1 CC to M/s.SPL.GP (SR-3137[F] dated 31/01/2022)

W.P (MD) No.1451 of 2022
27.01.2022

MGJ(10.02.2022) 4P 7C