BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.02.2022
CORAM:
THE HONOURABLE MR.JUSTICE B.PUGALENDHI
W.P(MD)No.1911 of 2022

K.Selvam ... Petitioner

versus

The Management of
Tamilnadu State Transport Corporation
(Madurai) Ltd.,
Dindigul Region,
Rep. by its General Manager,
Dindigul. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent to pay the petitioner interest at the rate of 6% per annum, for the period of delay from 01.03.2019 to 20.09.2019, in paying the amount paid towards his terminal benefits, namely, EPF Employee's Contribution, Gratuity and Encashment of Earned/Sick leave within the time stipulated by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.J.Senthil Kumaraiah
Standing Counsel

ORDER

This writ petition is filed for a Mandamus, directing the respondents to pay the petitioner interest at the rate of 6% per annum, for the period of delay from 01.03.2019 to 20.09.2019, in paying the amount towards his terminal benefits, namely, EPF Employee's Contribution, Gratuity and Encashment of Earned/Sick leave within the time stipulated by this Court.

2. The case of the petitioner is that he was appointed as Driver in the respondent Corporation on 01.11.1992 and after rendering 27 years of service, he retired from service as Special Grade Driver on 28.02.2019. However, the terminal and pension benefits, namely, EPF Employee's Contribution, Gratuity and Encashment of Earned/Sick leave were settled only on 21.09.2019. Since the benefits have been settled belatedly, the respondent is liable to pay interest for the belated payment. Therefore, he gave a representation dated 24.09.2021 to the respondent, but, the same did not evoke any response. Hence, he has filed this writ petition for the above said relief.

3. Mr.J.Senthil Kumaraiah, learned Standing Counsel, takes notice on behalf of the respondent 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 Standing Counsel appearing for the respondent 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/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."

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 respondent/Transport Corporation to pay interest for the belated payment of retirement/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. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

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 General Manager,
   Tamilnadu State Transport Corporation
   (Madurai) Ltd.,
   Dindigul Region,
   Dindigul.

W.P(MD)No.1911 of 2022
02.02.2022

MGJ(21.02.2022) 3P 2C