**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 01.02.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P (MD) No. 1857 of 2022**

S.N.Mahendran ... Petitioner

-Vs-

1. The Management of Tamil Nadu
State Transport Corporation (Madurai) Limited,
Dindigul Region,
Represented by its General Manager,
Dindigul.

2. The Administrator,
Tamil Nadu State Transport Employee's
Pension Fund Trust,
Tiruvalluvar Illam,
Anna Salai,
Chennai - 600 002. ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay interest to the petitioner at the rate of 18% per annum, for the period of delay from 01.07.2018 to 21.09.2019, in paying the amounts paid towards his terminal and pension benefits namely EPF Employee's Contribution, Gratuity and Encashment of Earned Leaves/Sick Leaves, and Commutated Value of Pension.

For Petitioner : Mr.S.Arunachalam
For Respondents : Mr.J.Senthil Kumaraiah

**O R D E R**

This Writ Petition is filed to direct the respondents to settle the interest on the belated payment of Terminal benefits for the period of delay from 01.07.2018 to 21.09.2019 at the rate of 18% per annum.

2. By consent of both the parties, the Writ Petition is taken up for final hearing at the admission stage itself.

3. The case of the petitioner is that he served as Special Grade Driver in the respondent Transport Corporation and retired from service on 30.06.2018. The retirement benefits of the petitioner, such as, Gratuity, Provident Fund, Leave Salary and other benefits, were settled only on 22.09.2019. 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 24.09.2021, to the respondents, but, the same did not evoke any response. Therefore, the petitioner has filed this Writ Petition for the above said relief.



4. Mr.J.Senthil Kumaraiah, learned counsel takes notice on behalf of the respondents 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 counsel appearing for the respondents submits that owing to Covid-19 pandemic situation, the Corporation is facing financial difficulties and requested for some time to pay the interest.

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 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 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. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

**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,
   The Management of Tamil Nadu
   State Transport Corporation (Madurai) Limited,
   Dindigul Region,Dindigul.
2. The Administrator,
   Tamil Nadu State Transport Employee's
   Pension Fund Trust,
   Tiruvalluvar Illam,
   Anna Salai,Chennai - 600 002.

**W.P (MD) No. 1857 of 2022**
**01.02.2022**

MGJ(08.03.2022) 3P 3C