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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.01.2022
CORAM :
THE HON`BLE MR.JUSTICE B.PUGALENDHI
W.P(MD) No.10030 of 2021

R.Rajendran ...Petitioner

Vs.

1.The Deputy Secretary to Government,
Transport (C1) Department,
State of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd.,
Bye-pass Road,
Madurai - 625 010.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd,
Bye-pass Road,
Madurai - 625 010. ...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to pay the Employees Retirement Benefit Scheme of Rs.16,300/-, Dearness Allowance of Rs.6,561/- and one year interest for the belated payment of retirement benefits to the petitioner on the basis of the petitioner's representation dated 24.02.2021, within the time limit that may be fixed by this Court.

For Petitioner	:Mr.S.Kanagarajan
For R1	:Mr.A.Kannan Additional Government Pleader
For R2 & R3	:Mr.J.Senthil Kumaraiah

O R D E R

This writ petition is filed to direct the respondents to settle the dearness allowance of Rs.6,561/- and Employees Retirement Benefit Scheme of Rs.16,300/- along with interest for the belated period of one year to the petitioner, based on his representation dated 24.02.2021.

3.The case of the petitioner is that he served as Senior Assistant in the respondent Transport Corporation and retired from service on 30.09.2018. The retirement benefits of Rs.16,24,836/-

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has been settled to the petitioner on 21.09.2019 except the amount Rs.6,561/- towards dearness allowance and Rs.16,300/- towards Employees Retirement Benefit Scheme. The petitioner has made several representations in this regard and the same was not responded. Therefore, the petitioner is constrained to file the present writ petition.

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4. The learned Counsel appearing for the respondents fairly admits that owing to Covid-19 pandemic situation, the Corporation is facing financial difficulties, due to which, the balance amount is not paid to the petitioner so far and it would be paid within a reasonable time as fixed by this Court.

5. Heard both sides 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*

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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 the balance amount of retirement benefits with interest at the rate of 6% p.a., from the date of retirement till the date of actual disbursement, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

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

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Transport (C1) Department,
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+1 CC to M/s.SPL.GP (SR-807[F] dated 07/01/2022)

Order made in
W.P(MD) No.10030 of 2021
06.01.2022

GM(CO)
GC(24.01.2022) 4P 5C

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