



W.P.(MD)Nos.1677 to 1690 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2022

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)Nos.1677 to 1690 of 2017

and

W.M.P.(MD)Nos.1376 to 1402 of 2017

W.P.(MD)No.1677 of 2017

The Management,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
27, New Railway Station Road,
Kumbakonam – 612 001.

... Petitioner

vs.

1. The Controlling Authority,
Under Payment of Gratuity Act,
(Assistant Commissioner of Labour),
Madurai.

2. S. Thangakannu

... Respondents

PRAYER in W.P.(M)No.1677 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relates to the order passed by the 1st respondent herein in PG case No.142 of 2016 dated 18.07.2016 and to quash the same in so far as the direction for payment of



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Gratuity within 30 days along with interest at the rate of 10% per annum is concerned.

In all Writ Petitions

For Petitioners : Mr.D.Sivaraman

For R-2 : Mr.S.Govindan

COMMON ORDER

The writ petition in W.P.(MD)No.1677 of 2017 is filed for issuance of a ***Writ of Certiorari***, to quash the impugned order passed by the 1st respondent in PG case No.142 of 2016, dated 18.07.2016 in so far as the direction for payment of Gratuity, within 30 days along with interest at the rate of 10% per annum is concerned.

2. The writ petitions filed in W.P.(MD)No.1677 of 2017 to W.P.(MD)No.1690 of 2017 are claiming gratuity and interest and hence all the writ petitions are taken up and this common order is passed.



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3. The brief facts as stated in the affidavit filed in W.P.(MD)No.1677 of 2017 is that the second respondent was working as a Checking Inspector in Karaikudi region of the Petitioner Transport Corporation. He had retired from service on 31.03.2013 on attaining the age of superannuation. The second respondent has filed petition in P.G. Case No.142 of 201, dated 18.07.2016 before the 1st respondent, claiming a sum of Rs.4,65,126/-towards gratuity, contending that the Petitioner Management has not disbursed the Gratuity payable to him immediately on his retirement on superannuation.

4. The petitioner Corporation has filed a counter statement before the 1st respondent, contending that the petitioner Corporation is under critical financial position and the Gratuity could not be paid in view of the financial constraint. The same issue was raised before this Court which ended up in filing writ appeal in W.A.No.383 to 458 of 2015. In the writ appeal the petitioner corporation had submitted that the corporation is in severe financial constraint and accepting the said stand of the corporation the Hon'ble Division Bench of this Court vide order dated 12.06.2015 had held that the petitioner management is



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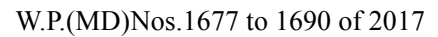
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liable to pay gratuity to all the employees who retired from service in 12 equal monthly installments. However without taking into consideration the order of the Hon'ble Division Bench the 1st respondent had passed the order directing the petitioner management to pay the gratuity with 10% rate of interest per annum. Aggrieved over the same the present writ petition is filed.

5. Heard Mr.D.Sivaraman, learned counsel appearing for the petitioner and Mr.S.Govindan, learned counsel appearing for the 2nd respondent, in all the Writ Petitions. Perused the material documents available on record.

6. The only contention raised before this Court is that due to financial constraints the petitioner management could not pay the gratuity amount. The petitioner corporation also claims that interest portion is on the higher side.

7. The similar issue was considered by this Court in W.P. (MD) No. 10486 of 2017, dated 10.02.2022, wherein it has been held that the rate of interest was imposed through a notification in S.O.No.1032, dated 01.10.1987, and the



8. The Hon'ble Court has also passed an order in W.P. (MD)No.2334

“5.It is not in dispute that for the period in question, the rate notified by the Central Government for repayment of long term deposit was between 8.7% per annum to 8.5% per annum. If the notification of the year 1987 that was originally issued under the provision is applied that would certainly run counter to the restriction laid down in Section 7(3A) of the Payment of Gratuity Act. Therefore, I am of the view that the appellate authority erred in awarding 10% interest. Considering the facts and circumstances of this case, the same is modified and reduced to 8.5% per annum.



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6.Mr.Ajay Ghose was requested to be an amicus curiae. Notice to the respondents was dispensed with only because the learned Standing Counsel for the management on instruction gave an undertaking that the modified award amount would be disbursed to the respective claimants within a period of six weeks from the date of receipt of a copy of this order.

7.Accordingly, this writ petition is party allowed. Since a substantial portion of the amount had already been deposited with the Appellate Authority, the respective claimants are at liberty to withdraw the same. The balance amount shall be disbursed by the management within a period of six weeks from the date of receipt of a copy of this order.”

9. Therefore, following the orders passed in the above two Writ Petitions, this Court is of the considered opinion that imposing the interest at the rate of 8.5% is sustainable in law.

10. Therefore, this Court directs the petitioner/Transport Corporation



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to pay the said quantified amount with 8.5% interest. The said amount shall be paid, within a period of six weeks from the date of receipt of copy of the order.

No Costs. Consequently, connected miscellaneous Petitions are closed.

Index : Yes / No

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Internet : Yes

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To

The Controlling Authority,
Under Payment of Gratuity Act,
(Assistant Commissioner of Labour),
Madurai.



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S.SRIMATHY, J

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Common Order made in
W.P.(MD)Nos. 1677 to
1690 of 2017

23.09.2022