



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.9496 of 2018

and

W.M.P. (MD)No.8748 of 2018

WEB COPY

The Management,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye Pass Road,
Dindigul Region,
Dindigul.

...Petitioner

/Vs./

1.The Controlling Authority Under the Payment of Gratuity Act, 1972,
(The Assistant Commissioner of Labour),
Office of Deputy Commissioner of Labour,
Dindigul.

2.K.Arumuga Nainar

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent pertaining to the proceedings in P.G.2/2014 dated 17.07.2017 insofar as the quantum of gratuity payable to the second respondent and quash the same as illegal.

For Petitioner	: Mr.J.Senthil Kumaraiah
For R1	: Mr.A.K.Manikkam
	Special Government Pleader
For R2	: Mr.S.Arunachalam

ORDER

Heard Mr.J.Senthil Kumaraiah, learned counsel for the petitioner, Mr.A.K.Manikkam, learned Special Government Pleader for R1 and Mr.S.Arunachalam, learned counsel for R2.

2.All learned counsel would concur upon the position that the issues arising in this writ petition are covered by orders of this Court. The first issue relates to whether the absence period of 14 years may be construed as break in service.

3.Learned counsel for petitioner would fairly submit that it cannot, in view of the order passed by a Division Bench of this Court in *The Management, Tamil Nadu State Transport Corporation (Madurai) Limited, vs. The Controlling Authority and R.Paulraj* in W.A. (MD.)No.1061 of 2021 dated 03.06.2021, wherein the Division



Bench has noted that there was no order in that case treating the period as break in service and as such, the absence in such circumstances could not be treated as break in service.

4. In the present case, as well, there is no order that has been passed treating the absence period of 14 years as break in service, and as such, the question of treating the same as break in service would not arise.

5. As regards the rate of interest that has been directed to be paid by R1 for the delay in payment of gratuity, as against the rate of 10%, Mr. J. Senthil Kumaraiah, learned counsel for the petitioner would state that the applicable rate of interest is only 8.5% as per the provisions of Section 7(3A) of the Payment of Gratuity Act, 1972.

6. As the Transport Corporation has made payment of a sum of Rs.3,47,000/- (Rupees Three Lakhs and Forty Seven Thousand only) with interest, all that remains is a sum of Rs.2,77,495/- (Rupees Two Lakhs and Seventy Seven Thousand and Four Ninety Five only) to be paid along with interest at rate of interest 8.5%. Let this be paid within a period of eight weeks from today. This Writ Petition is disposed as above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// 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 Controlling Authority Under the Payment of Gratuity Act, 1972,
(The Assistant Commissioner of Labour),
Office of Deputy Commissioner of Labour,
Dindigul.

+1 CC to M/s.SPL.GP (SR-2579[F] dated 27/01/2022)

W.P. (MD) No. 9496 of 2018

25.01.2022

MGJ(08.02.2022) 2P 3C

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