



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20073 of 2021

& WMP(MD)No.16775 of 2021

WEB COPY

S.R.Premnath

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Deputy Director,
Local Fund Audit,
Corporation Audit Department,
Madurai Corporation, Madurai-2

3.The Assistant Commissioner(Accounts),
Madurai Corporation Central Office,
Anna Maaligai,
Thallakulam, Madurai-625 002

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 05.08.2021 in Na.Ka.No.B.11/027788/2019 of the third respondent herein, quash the same and consequently direct the respondents to forthwith pay interest on the entire amount of Rs.11,73,278/- to the petitioner @ 12% per annum for the period from 01.02.2011 to 31.05.2015.

For Petitioner : Mr.G.Mahadevan

For Respondents : Mr.B.Saravanan

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 05.08.2021 in Na.Ka.No.B.11/027788/2019 of the third respondent herein, quash the same and consequently direct the respondents to forthwith pay interest on the entire amount of Rs.11,73,278/- to the petitioner @ 12% per annum for the period from 01.02.2011 to 31.05.2015.

2. Heard Mr.G.Mahadevan, learned counsel appearing for the petitioner and Mr.B.Saravanan, learned counsel appearing for the respondents.



3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

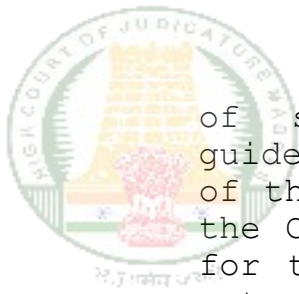
4. According to the petitioner, he retired from service on 31.01.2011 and though there were disciplinary proceedings initiated against the petitioner, subsequently, the same were dropped since the charge framed against the petitioner was not proved. The grievance of the petitioner is that though the terminal benefits due and payable to the petitioner in the year 2011, were belatedly paid only in the year 2015. Hence, the petitioner claimed that he is entitled to the interest at 12% towards the belated payment for the period from 01.02.2011 to 31.05.2015. However, the 3rd respondent vide proceedings dated 05.08.2021 impugned in the writ petition, denied the claim of the petitioner, stating that the petitioner has already been paid a sum of Rs.11,73,298 on 11.06.2015 and only in view of pendency of disciplinary proceedings, the amounts were paid with a delay and hence, there is no necessity to pay the interest at 12% p.a. Challenging the said order, the petitioner has come forward with the present Writ Petition.

5. The learned counsel appearing for the respondents would submit that the retiral benefits were already paid, but there was delay in view of pendency of disciplinary proceedings, during which period, the petitioner is not entitled to the interest and hence, the 3rd respondent has rightly passed the impugned order, which requires no interference.

6. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

7. It is not in dispute that though the petitioner was initiated disciplinary proceedings, but the same were dropped since the charge against the petitioner was not proved. Admittedly, the petitioner was paid retiral benefits. In such a situation, the petitioner is entitled to the interest for the belated payment of his retiral benefits. 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."

8. 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.

9. 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, excluding a reasonable period of 3 months for the purpose of calculating the pension dues, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

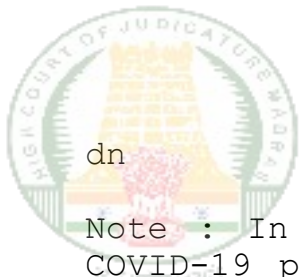
Sd/-

Assistant Registrar(AE)

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/ /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 Commissioner,
Madurai Corporation,
Madurai.

2.The Deputy Director,
Local Fund Audit,
Corporation Audit Department,
Madurai Corporation, Madurai-2

3.The Assistant Commissioner(Accounts),
Madurai Corporation Central Office,
Anna Maaligai,
Thallakulam, Madurai-625 002

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-824[F] dated 07/01/2022)
+1 CC to M/s.B.SARAVANAN, Advocate (SR-942[F] dated 10/01/2022)
+1 CC to M/s.SPL GP (SR-39492[F] dated 20/12/2021)

W.P (MD) No.20073 of 2021
06.01.2022

nsn(CO)
TR(08.02.2022) 4P 7C