



W.A.No.332 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.332 of 2020

C.Dayalan

...Appellant

Vs.

1.Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Rep. by the Managing Director,
No.3/137, Salamedu, Valudhareddy Post,
Villupuram – 605 602.

2.Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Rep. by the General Manager,
Kancheepuram Regional Office,
Chennai – Bengalaru Highway,
Karapettai, Kancheepuram – 631 552.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.09.2019 in W.P.No.27570 of 2019.

For Appellant : Mr.N.Ishak

For Respondents : Mr.M.Aswin, Standing Counsel



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J U D G M E N T

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(Judgment was made by **R.SUBRAMANIAN, J.**)

The appellant is aggrieved by the dismissal of his writ petition seeking a direction to the respondent Corporation to pay interest for the belated payment of gratuity.

2. The writ Court dismissed the writ petition on the ground of delay and laches. The appellant joined the services of the respondent Corporation on 17.08.1974 and retired on 30.06.2012 after attaining the age of superannuation. On the date of his retirement, his Provident Fund was disbursed. The other retirement benefits like Commutation Pension were paid to the petitioner belatedly in November 2013 and for the delayed payment, interest was paid on 16.08.2018 as per the order passed by the Division Bench of this Court in W.A.No.665 of 2018.

3. The gratuity of the petitioner was paid to him only on 12.05.2015, since the interest for the belated payment of gratuity was not paid, the petitioner made a representation on 25.09.2018 and followed by a remainder on 11.05.2019. Since his request was not complied with, the petition sought for a mandamus.



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4. The writ Court rejected the petition solely on the ground of delay. The liability to pay interest for the delayed payment of gratuity is a statutory liability and the same arises due to non-compliance with the provisions of the statute which requires payment of gratuity within a period of 30 days from the date of retirement.

5. Section 7(3)(a) of the Payment of Gratuity Act imposes an obligation on the employer to pay gratuity within a period of 30 days and if the gratuity is not paid within 30 days simple interest at such rate, not exceeding the rate notified by the Central Government for long term deposits should be paid. This being the statutory liability, the same cannot be denied to the petitioner. Yet another circumstance which impel us to over turn to the verdict of the writ Court is the order of the Division Bench dated 09.07.2018, wherein, the Division Bench has considered the delay in payment of gratuity and has observed as follows:-

As liability of the Transport Corporations, to pay interest, on the belated payment of retirement benefits is confirmed, keeping in mind the non-payment of interest for



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several thousands of employees, we invoke the doctrine of judgment in rem to other cases.

6. In view of the above pronouncement, we are of the opinion that this judgment by itself would provide a cause of action for the petitioner to demand payment of interest. If this judgment is taken as a cause of action to demand payment of interest, the petitioner is well within time and the petitioner cannot be blamed or non-suited on the ground of laches.

7. The writ appeal is therefore **allowed** and the writ petition will stand allowed with a direction to the respondent to pay interest at 6% on the gratuity amount from the date on which it fell due, i.e., 30 days after retirement of the petitioner till the date on which it is actually paid. No costs.

(R.S.M., J.) (S.S.K., J.)
04.01.2023

dsa
Internet :Yes
Index :No
Speaking order



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To
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1. Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
No.3/137, Salamedu, Valudhareddy Post,
Villupuram – 605 602.
2. General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Regional Office,
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R.SUBRAMANIAN, J.
and
SATHI KUMAR SUKUMARA KURUP, J.

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