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W.P.No.12547 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12547 of 2013
and M.P.No.1 of 2013

N.Sivalingam

...Petitioner

-Vs-

1. The Chairman cum Managing Director,
Tamil Nadu Civil Supplies Corporations,
No.12, Tambusamy Road,
Kilpauk, Chennai – 10.

2. The Regional Manager,
Tamil Nadu Civil Supplies
Corporation,
N.G.R. Magar.
S.R.C. Mill Compound,
Tiruppur – 1.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Rc.No.AGR5/19610/12, dated 19.06.2012 and quash the same and consequently directing the respondents to pay the interest at the rate of 18% per annum on the belated payment of gratuity period from 31.03.2011 to 08.06.2012 to the petitioner.



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For Petitioner : Mr.C.Prakasam

For Respondents : No appearance

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in his proceedings Rc.No.AGR5/19610/12, dated 19.06.2012, thereby rejected the claim of the interest for the belated payment of gratuity amount.

2. The petitioner was appointed as Assistant Quality Inspector in the respondents corporation on 05.01.1976. Subsequently he was promoted as Quality Inspector and due to attainment of superannuation, he was permitted to retire from service by a communication dated 31.03.2011, without prejudice to pending storage loss, transit loss, vigilance cell, audit recovery, monetary value of punishment inflicted, pending storage loss proposals, audit objections, recovery and recovery if any for the un-audit period.

3. The learned counsel appearing for the petitioner would



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submit that there was no charge made as against the petitioner except the alleged storage loss to the tune of Rs.1.47 lakhs, that too the said charge has not been proved by way of any enquiry. Further the gratuity cannot be withheld and the petitioner was not paid the gratuity settlement immediately after his retirement. There was a delay of more than 14 months to disburse the gratuity amount. Therefore, the petitioner was entitled for interest for the belated payment of gratuity amount for the period from 31.03.2011 to 08.06.2012. However, the first respondent without considering the above facts and circumstances mechanically rejected the claim of the petitioner.

4. He further submitted that even assuming that the petitioner is facing any charges in respect of storage loss, no proceedings has been initiated as against the petitioner so far and no order has been passed to recover any amount from the petitioner. In support of his contention, he relied upon the judgment of the Hon'ble Division Bench of this Court in ***W.A.No.562 of 2020***, dated ***28.10.2020*** in the case of ***V.Pandian Vs. The Joint Registrar of Cooperative Societies and ors.***

5. Heard the learned counsel appearing for the petitioner.



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Though the respondents were served notice and engaged counsel, no one is present today and they failed to file any counter.

6. Admittedly, the petitioner was permitted to retire from his service as Quality Inspector, by communication dated 25.03.2011 without prejudice to pending storage loss, transit loss, vigilance cell, audit recovery, monetary value of punishment inflicted, pending storage loss proposals, audit objections, recovery and recovery if any for the un-audit period. Further these conditions are imposed in all other employees while they retire from service.

7. That apart, even till now, there is no evidence to show that the petitioner is facing any charges for storage loss of any other recovery from the petitioner. Even assuming that if any storage loss or recovery from the petitioner, the first respondent cannot withhold the gratuity amount which is entitled by the petitioner.

8. Now the only question to be decided in this Writ Petition is that whether the petitioner is entitled for interest on the belated payment



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of gratuity?

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9. Section 7(3A) of the Payment of Gratuity Act itself makes the provisions for payment of interest and makes the provisions of settlement any such dispute under the Act. Thus there is clear mandate in the provisions of Section 7 of the Payment of Gratuity Act, to the employer for payment of gratuity within time and to pay interest on the delayed payment of gratuity. There is also provision to recovery the amount of gratuity with compound interest in case amount of gratuity payable was not paid by the employer in terms of Section 8 of the Payment of Gratuity Act, since the employer did not satisfy the mandatory requirement of the proviso to Section 7(3A) of the Payment of Gratuity Act, no discretion was left to deny the interest to the appellant on belated payment of gratuity.



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10. In the case on hand, admittedly the respondent paid gratuity amount only on 08.06.2012, after the period of 14 months from the date of petitioner's superannuation. Therefore, the petitioner shall be entitled for the interest at the rate of 8% per annum on the belated payment of gratuity for the period from 31.03.2011 to 08.06.2012.

11. Accordingly the impugned order dated 19.06.2012, passed by the first respondent in Rc.No.AGR5/19610/12, is hereby set aside. The first respondent is directed to pay interest at the rate of 8% (eight percentage) per annum on the belated gratuity amount to the petitioner for the period from 31.03.2011 to 08.06.2012, within a period of six weeks from the date of receipt of a copy of this Order.

12. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts



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To

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