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W.P. No. 8153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8153 of 2023

R.Gunasekaran

... Petitioner

-VS-

1. The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Limited
Vazhuthareddy
Villupuram – 605 602.

2. The Administrator
Tamil Nadu State Transport Corporation
Employees Post Retirement Benefit Fund Scheme
Thiruvalluvar House
Pallavan Salai
Chennai – 600 002.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to settle the differential leave salary, CRBS amount, interest for commutation amount along with interest at the rate of 18% within the stipulated time as fixed by the Court.

For Petitioner : Mr. J.Pradeep

For Respondents : Mr. R.Venkatesa Perumal (R1)



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Mr. C.S.K.Sathish (R2)

ORDER

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Heard Mr. J.Pradeep, Learned Counsel for the Petitioner, Mr. R.Venkatesa Perumal, Learned Counsel for the First Respondent and Mr. C.S.K.Sathish, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who was working as Senior Superintendent in the service of the First Respondent, retired from service on 31.01.2017 on attaining the age of superannuation.

3. The grievance ventilated by the Petitioner in this Writ Petition is that the entire amount of his terminal benefits, viz., leave salary, commutation and CRBS amount, had not been paid at the time of his retirement and payment of commutation and part payment of leave salary were made belatedly without interest, but payment of CRBS amount has not been made. In that backdrop, the Petitioner has filed this Writ Petition seeking direction to the Respondents to pay the remaining amount of terminal benefits with interest at the rate of 18% per annum from the date of his retirement till actual payment.



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4. Learned Counsel appearing for the Respondents contend that due to financial constraints and subsequent COVID pandemic situation, the Respondents have not been make payment of the dues in time and as such, the question of paying interest for the delay in payment of terminal benefits of the Petitioner would not arise, especially when there is no legal provision in that regard.

5. In respect of the leave encashment and other dues, neither any specific enabling provision nor any statutory prohibition for payment of interest for delayed payment has been shown by either of the parties. The Hon'ble Supreme Court of India in a catena of decisions in ***State of Kerala -vs- M.Padmanabhan Nair*** [(1985) 1 SCC 429], ***Vijay L.Mehrotra -vs- State of U.P.*** [(2001) 9 SCC 687] and ***D.D.Tewari -vs- Uttar Haryana Bijli Vitran Nigam Ltd.,*** [(2014) 8 SCC 894] has reiterated that an employee has to be compensated by way of interest for delayed payment of his terminal benefits. It has been ruled by the Hon'ble Supreme Court of India in ***S.K.Dua -vs- State of Haryana*** [(2008) 3 SCC 44] that even in the 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 inasmuch as the retiral



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benefits are not in the nature of bounty and needs no authority in support thereof.

6. Since it is contended that by Learned Counsel for the Petitioner that the entire amount of terminal benefits due to the Petitioner have not been paid, it is incumbent upon the Respondents to furnish a working-sheet showing the calculation for arriving at the amount of terminal benefits. If any amount of the terminal benefits remains due, the same shall be paid to the Petitioner immediately.

7. It is represented by Learned Counsel for the Petitioner that though the Petitioner had sought interest at 18% per annum, the Petitioner would be satisfied if interest at the rate of 4% per annum is granted for delayed payment of terminal benefits.

8. In view of the foregoing discussion, the following order is passed:-

- (i) the concerned authority shall furnish a working-sheet showing the calculation for arriving at the various amounts of terminal benefits due to the Petitioner immediately;



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(ii) if any amount of the terminal benefits remains due, the same shall be

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(iii) the concerned authority shall pay interest at the rate of 4% per annum for all terminal benefits due to the Petitioner from the date of his retirement on 31.05.2019 till actual payment and furnish a working-sheet showing the calculation for the same by 30.09.2023;

(iv) if the Petitioner still has any grievance to be redressed in the matter, he is not precluded from working out his rights before the proper forum in the manner recognized by law; and

(v) the report of such compliance before the Registrar (Judicial) of this Court.

9. In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

16.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.07.2023.

To

1. The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Limited
Vazhuthareddy, Villupuram – 605 602.



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P.D. AUDIKESAVALU, J.

Maya

2. The Administrator
Tamil Nadu State Transport Corporation
Employees Post Retirement Benefit Fund Scheme
Thiruvalluvar House
Pallavan Salai, Chennai – 600 002.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.

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