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W.P.No.9493 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.9493 of 2020

D.Ragunathan

... Petitioner

Vs.

Tamil Nadu Civil Supplies Corporation Ltd.,
Rep. by its Managing Director,
Head Office, No.42, Thambusamy Street,
Kilpauk, Chennai – 600 010.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to pay the fuller and correct interest amount of Rs.8,63,400-60 (Rupees Eight lakhs sixty three thousand four hundred and sixty paise only) for the belated payment of following amounts viz., (1) Gratuity of Rs.10,00,000/- and (2) Earned Leave and Unearned Leave Encashment amount of Rs.6,49,003/- at the rate of 10% per annum from the date of retirement of the petitioner i.e., from 30.11.2013 to till the date of actual payments i.e., on 08.05.2019 and 16.05.2019 respectively and further interest at the rate of 10% p.a. from the date of this writ petition till the date of payment on 8,63,400-60.

For Petitioner : Mr.K.Premkumar

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For Respondent : Mr.Dr.K.Thirugnanam

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ORDER

The petitioner has filed this writ petition seeking direction to the respondent to pay the fuller and correct interest amount of Rs.8,63,400-60 (Rupees Eight lakhs sixty three thousand four hundred and sixty paise only) for the belated payment of following amounts viz., (1) Gratuity of Rs.10,00,000/- and (2) Earned Leave and Unearned Leave Encashment amount of Rs.6,49,003/- at the rate of 10% per annum from the date of retirement of the petitioner i.e., from 30.11.2013 to till the date of actual payments i.e., on 08.05.2019 and 16.05.2019 respectively and further interest at the rate of 10% p.a. from the date of this writ petition till the date of payment on 8,63,400-60.

2. The case of the petitioner is that the petitioner viz., D.Ragunathan was initially appointed as Mill Technical Assistant on 02.02.1976 on temporary basis and thereafter, he was appointed as Assistant Quality Inspector permanently w.e.f. 21.05.1976 and now rose to the position of Manager (Quality Control) and posted to work at the Headquarters of the



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Tamil Nadu Civil Supplies Corporation. This being so, when he was about to retire from service on 30.11.2013, the respondent vide his proceedings dated 29.11.2013, suspended the petitioner from service for a period of six months and simultaneously passed an order thereby retaining him in service and not permitted to retire from service, pending contemplation of disciplinary proceedings. He was paid with the Subsistence Allowance for a period of six months and thereafter, it was stopped.

2.2. Further, the respondent vide proceedings dated 28.05.2014 extended the period of suspension by another six without Subsistence Allowance for the said period. Hence, challenging the same, the petitioner has filed a Writ Petition in W.P.No.10580 of 2015 and this Court by its order dated 24.04.2015 allowed the petition and directed the respondent to pay the Subsistence Allowance w.e.f. 01.06.2014 till final orders are passed in the disciplinary proceedings. Thereafter, the disciplinary proceedings initiated against the petitioner were concluded on 20.08.2015, however, he was not allowed to retire from service and he was continuously kept under suspension without sanctioning his retirement benefits. Hence, he filed another writ



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petition in W.P.No.255 of 2015 seeks direction to the respondent to release all the retirement benefits payable to him at the rate of 10% per annum on the delayed disbursement of terminal benefits.

2.3. Pending the writ petition, the respondent vide his proceedings dated 31.10.2018 allowed him to retire from service and ordered for the recovery of a sum of Rs.19,128/- towards storage loss from his earned leave encashment and unearned leave and order for payment of terminal benefits of Rs.16,49,003/- Subsequent to the same, the aforesaid writ petition in W.P.No.255 of 2018 was disposed of by this Court vide order dated 12.04.2019. However, the same was not complied. Hence, the petitioner has filed a contempt petition in Cont.P.No.1577 of 2049.

2.4. Pending this contempt petition, the General Manager (Administration), Gratuity Trust Fund, vide her proceedings dated 06.05.2019 sanctioned the Gratuity. Thereafter, the respondent vide proceedings dated 13.05.2019 sanctioned for the payment of Encashment of Earned leave and Unearned Leave on personal affairs. Further the 10% of the



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Employees Contribution Provident Fund was sanctioned vide proceedings dated 30.08.2019. While so, the respondent vide proceedings in Rc.Orer No.AGR2/16232/2019 dated 30.09.2019 order for the payment of interest of Rs.35,712/- alone towards belated disbursement of gratuity as against the actual due of Rs.5,44,383.56/- which is calculated from the date of his actual retirement i.e., from 30.11.2013 to 07.05.2019 at the rate of 10% p.a. Further, recording the aforesaid proceedings of the respondent dated 06.05.2019, 13.05.2019 and 30.09.2019, the contempt petition was closed. However, the respondent has failed to pay the proper and fuller interest for the belated disbursement of entire retirement benefits. Aggrieved over the same, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is entitled for statutory interest at the rate of 10% as per Section 7(3A) of the Payment of Gratuity Act, 1972. Hence, he prayed this Court to issue a direction to the respondent to pay the statutory interest within a time frame to be fixed by this Court.



4. The learned counsel appearing for the respondent seeks eight weeks time to settle the same to the petitioner.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. At this juncture it is pertinent to extract Section 7(3A) of the Payment of Gratuity Act, 1972 and the same is reads as follows:

“7.Determination of the amount of Gratuity:

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.”

7. In view of the above Act, the petitioner is entitled for statutory



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interest at the rate of 10%. Hence, this Court directs the respondent to pay the statutory interest of 10% as per Section 7(3A) of the Payment of Gratuity Act, 1972, within a period of eight weeks from the date of receipt of a copy of this Order.

8. Learned counsel for the petitioner submitted that in view of granting statutory interest to the petitioner, he is relinquishing his claim for the encashment of Earned Leave and Unearned Leave.

9. This writ petition stands disposed of with the aforesaid direction.
No costs.

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Index : Yes/No

Speaking Order : Yes/No

To:

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Tamil Nadu Civil Supplies Corporation Ltd.,
Head Office, No.42,

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J.SATHYA NARAYANA PRASAD,J.

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