



W.A.No.352 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.352 of 2020

and

C.M.P.No.5875 of 2020

S.Balasubramanian

...Appellant

Vs.

1.The Management,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram Region,
Salamedu Villupuram,
Villupuram District – 605 602.

2.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund,
Pallavan Salai, Chennai – 600 002.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 03.10.2019 in W.P.No.28874 of 2019, allow the Writ Appeal and consequently direct the respondents to pay interest for the belated payment of gratuity and commutation of pension amount.



W.A.No.352 of 2020

For Appellant : Mr.S.T.Varadarajulu
For Respondents : Mr.M.Aswin, Standing Counsel for R1
Mr.C.S.K.Sathish for R2

J U D G M E N T

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

The appellant is aggrieved by the dismissal of his writ petition in which he had sought for a writ of mandamus directing the respondents to pay interest for the belated payment of gratuity and commutation pension

2. The appellant joined the services of the Corporation on 14.11.1975 as a Junior Assistant and after rendering 35 years of services eventually retired on 30.06.2010. His retirement benefits were not settled immediately after his retirement. His Gratuity was paid on 26.03.2011 after a delay of 8 months and 25 days. The Commutation Pension was paid on 14.07.2011 i.e., after 12 months and 13 days. The appellant therefore claimed that he is entitled to interest for the delayed period on the Gratuity and the Commutation Pension.



W.A.No.352 of 2020

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3. Though the appellant accepted the principal amount without demand, upon this Court passing order in W.A.No.665 of 2018 dated 28.03.2018 the appellant made a representation seeking interest. Since the same was not complied with, the appellant approached this Court with a prayer for mandamus. The said prayer for mandamus was rejected by the writ Court solely on the ground of delay and laches.

4. No doubt, there has been a delay on the part of the appellant, However, a Division Bench of this Court in W.A.No.665 of 2018 had passed an order on 09.07.2018 concluding that the Corporation is liable to pay interest on the belated payment of retirement benefits and the Division Bench took note of the fact of non-payment of interest to several thousands of employees and had in fact applied the doctrine of judgment *in rem* in other cases. This in our opinion would amount to a direction to the Corporation to pay interest to all the employees wherever there is a delay in disbursement of retirement benefits.



W.A.No.352 of 2020

5. We are therefore of the considered opinion that by dismissal of the writ petition, the writ Court had gone against the pronouncement of the Division Bench. Once the Division Bench makes a direction and makes it a direction *in rem* that would definitely enure to the benefit of all the employees and that by itself would give a cause of action to other employees to seek payment of interest.

6. We are therefore unable to uphold the order of the writ Court. The writ appeal is **allowed** with a direction to pay interest at 6% for the belated payment of Gratuity. It is made clear that the interest will be payable only for the delay period.

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

dsa
Internet :Yes
Index :No
Speaking order



W.A.No.352 of 2020

To

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WEB COPY



W.A.No.352 of 2020

R.SUBRAMANIAN, J.
and
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dsa

W.A.No.352 of 2020

04.01.2023