



W.P.(MD)No.22536 of 2018

WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED :22.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.22536 of 2018**

S.Gunasekaran

... Petitioner

Vs.

1.The Management of  
Tamilnadu State Transport Corporation(Kumbakonam) Ltd.,  
Kumbakonam Region,  
Rep. by its Managing Director,  
Kumbakonam.

2.The Administrator,  
Tamil Nadu State Transport Employees' Pension Fund Trust,  
Thiruvalluvar Illam,  
Anna Salai,  
Chennai – 2.

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India  
praying for issuance of Writ of Mandamus directing the first respondent to  
recalculate gratuity of the petitioner, by taking his service period as 18 years  
and to pay him Rs.29,512/- as balance of gratuity, together with interest,



W.P.(MD)No.22536 of 2018

WEB COPY

along with interest amount towards delayed payment of part of gratuity amount Rs.1,47,557/- for the period from 01.07.2015 to 15.06.2017 at the rate as per Sec.7 (3A) of the Payment of Gratuity Act and also towards the delayed payment of EPF amount Rs.92,616/- for the period 01.07.2015 to 23.05.2016 at the rate of 18% per annum and further directing the respondents to pay him pension payable for the period from July, 2015 to July, 2016, together with 18% interest per annum, within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.D.Sivaraman

### **ORDER**

This writ petition has been filed seeking for a direction to the first respondent to recalculate gratuity of the petitioner, by taking his service period as 18 years and to pay him Rs.29,512/- as balance of gratuity, together with interest, along with interest amount towards delayed payment of part of gratuity amount Rs.1,47,557/- for the period from 01.07.2015 to 15.06.2017 at the rate as per Sec.7 (3A) of the Payment of Gratuity Act and also towards the delayed payment of EPF amount Rs.92,616/- for the period



W.P.(MD)No.22536 of 2018

WEB COPY

01.07.2015 to 23.05.2016 at the rate of 18% per annum and further directing the respondents to pay him pension payable for the period from July, 2015 to July, 2016, together with 18% interest per annum, within a time frame as may be fixed by this Court.

2. The case of the petitioner is that the petitioner was appointed as a 'Conductor' in the first respondent Corporation. After completion of 18 years of service, he retired from service on 30.06.2015. The grievance of the petitioner is that the gratuity amount paid to him was not correctly calculated. Even after a lapse of three years, the gratuity amount and interest for the belated terminal benefits were not paid to the petitioner. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that as per the calculation sheet submitted by the Corporation, the qualifying service is 18 years, one month and 27 days. However, they have deducted three years service period and calculated the total number of service as 15 years and calculated the gratuity amount, which is not sustainable one



W.P.(MD)No.22536 of 2018

WEB COPY

and the petitioner is entitled to receive gratuity for a period of three years which was rejected by the respondents is not sustainable. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned standing counsel appearing for the respondents would submit that the petitioner was on loss of pay during the financial year 1997-1998 – 143 days, in 2012-2013 – 154 days and in 2014-2015 – 288 days. If any employee is on loss of pay for more than 120 days in any financial year, the one year service will be deducted for gratuity calculation. Hence, the gratuity was calculated for a period of 15 years only and the same was settled to the petitioner.

5. Heard the learned counsel appearing for the petitioner, the learned standing counsel appearing for the respondents and perused the materials available on record.

6. Admittedly, the petitioner was appointed as a Conductor. He retired from service on 30.06.2015. When the respondent Corporation



W.P.(MD)No.22536 of 2018

not paid the gratuity amount for a period of three years on the ground that during the year 1997-1998 – the petitioner was on loss of pay for 143 days, in 2012-2013 – 154 days and in 2014-2015 – 288 days. Without any Rules or Guidelines and without any statutory backing, deduction of three years period from the petitioner's service is not sustainable one and the petitioner is entitled to succeed in this writ petition.

7. In view of the above, this writ petition is allowed. The first respondent is directed to pay the gratuity amount for the non-payment period of three years and pension arrears and 4% interest for the belated settlement of the terminal benefits. The above said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No Costs.

**22.02.2023**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
pm



W.P.(MD)No.22536 of 2018

To

WEB COPY

- 1.The Managing Director,  
Management of Tamilnadu State Transport  
Corporation(Kumbakonam) Ltd.,  
Kumbakonam Region,  
Kumbakonam.
- 2.The Administrator,  
Tamil Nadu State Transport Employees' Pension Fund Trust,  
Thiruvalluvar Illam,  
Anna Salai,  
Chennai – 2.



WEB COPY



W.P.(MD)No.22536 of 2018

**M.DHANDAPANI, J.**

pm

**W.P.(MD)No.22536 of 2018**

**22.02.2023**