



WP(MD) No.1238 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.1238 of 2021
and W.M.P.(MD)No.1054 of 2021

The General Manager/Administration,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Periyamilaguparai,
Tiruchirappalli.

... Petitioner

Vs.

P.Rengasamy

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records relates to the order passed by the Appellate Tribunal under Payment of Gratuity Act, 1972, Tiruchirappalli herein in PG Appeal No.30 of 2016 dated 11.06.2018 and to quash the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.N.Sudhagar Nagaraj



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ORDER

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This Writ Petition has been filed by the petitioner assailing the orders passed by the Assistant Commissioner of Labour, Trichy passed under the provisions of payment of Gratuity Act, 1972 in P.G.Case No.39 of 2016, dated 29.06.2016, directing the payment of an amount of Rs.76,836/- towards gratuity amount to the respondent together with 10% interest as confirmed by the appellate Tribunal in P.G.Appeal No.30 of 2016, dated 11.06.2018.

2. The learned counsel appearing for the petitioner Corporation contended that this Writ Petition has been filed only aggrieved by the award of interest at the rate of 10% granted contrary to the decision of this Court in W.A.(MD)Nos.383 to 457 of 2015, dated 12.06.2015 and requested to reduce the interest of rate from 10% to 8.5%. Learned counsel for the petitioner also placed reliance on the decision of the learned Single Judge of this Court in W.P.(MD)Nos.2334 to 2357 of 2019, dated 01.02.2019.



3. On the other hand, the learned counsel appearing for the respondent contended that in terms of the notification issued by the Central Government, the respondent is entitled for grant of 10% interest on the delayed payment of gratuity amount and the original authority as well as the appellate authority rightly have granted 10% interest and the same does not require any interference by this Court.

4. The very same issue has fallen for consideration before this Court in W.P.(MD)Nos.2334 to 2357 of 2019 and this Court by order dated 01.02.2019 has held as under:

“3.The learned counsel appearing for the workmen contended that the orders passed in these writ petitions do not warrant any interference. His submission is that as per Section 7(3A) of the Payment of Gratuity Act, 1972, a notification was already issued by the Central Government and it provides for awarding 10% interest. He would contend that the notification that was issued as early as in 1987 is still holding good and no modification notification has been issued . His specific contention is that the management is not justified in placing reliance on a notification issued by the Central Government setting out the rate for repayment of long term deposit and that a special notification under Section 7(3A) of the Act is required. In as much as the



notification earlier issued under this provision is still holding the field, this Court will have to necessarily abide by the same.

4. I am not able to subscribe to the aforesaid submission. As rightly pointed out by the learned Standing Counsel for the management, no doubt, the special notification issued by the Central Government under Section 7(3)A of the Act stipulates awarding of 10% interest and that it has not been modified till date. But then, a notification issued under a statutory provision cannot be applied, if it would run counter to the statutory mandate. Section 7(3A) of the Act states that 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. In other words, this provision provides a upper ceiling limit for the rate of interest to be awarded. The upper ceiling limit is the rate notified by the Central Government for repayment of long term deposits.

5. It is not in dispute that for the period in question, the rate notified by the Central Government for repayment of long term deposit was between 8.7% per annum to 8.5% per annum. If the notification of the year 1987 that was originally issued under the provision is applied that would certainly run counter to the restriction laid down in Section 7(3A) of the Payment of Gratuity Act. Therefore, I am of the view that the appellate authority erred in awarding 10% interest. Considering the facts and circumstances of this case, the same is modified and reduced to 8.5% per annum.”



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5. In the light of the above, this Court is not inclined to examine the matter afresh and inclined to follow the decision of this Court as noted above. Accordingly, the impugned order is modified only to the extent of awarding of interest at 10% and accordingly, the rate of interest payable to the respondent herein shall be 8.5% on the delayed payment of gratuity amount.

6. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

NCC : Yes/No
Index : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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