



WP(MD)No.1240 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.02.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.(MD)No.1240 of 2021
and
W.M.P(MD)No.1056 of 2021

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

... Petitioner

/vs./

P.Boopathi

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of 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.89 of 2017 dated 02.05.2018 and to quash the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.N.Sudhagar Nagaraj



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ORDER

The issue that arises for consideration in this writ petition is as to whether the respondent is entitled for the payment of Gratuity for the entire period of service i.e., 25 years, rendered by him in the petitioner Corporation or not.

2. As the Gratuity amount was not paid to the respondent, the respondent approached the authorities under the Payment of Gratuity Act, by filing his claim. The said claim was allowed by the authorities through the proceedings Pa.Ko.No.21/4 dated 26.09.2016, awarding Gratuity for 23 years as against the claim of the respondent for 25 years. Aggrieved by the same, the respondent filed an appeal before the appellate authority in P.G.A.No.89 of 2017 and the said appeal was allowed by the Appellate Authority by order dated 02.05.2018 in P.G.A.No.89 of 2017. Aggrieved by the said order, the petitioner Corporation filed the present writ petition.



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3. There is no dispute that the respondent served in the petitioner Corporation for 25 years. However, it is contended by the petitioner Corporation in P.G.A.No.89 of 2017 that though the respondent has worked for 25 years, he has not worked for 240 days for some years. But the petitioner Corporation has not produced any material in support of its contention before the appellate authority or before the primary authority. In the light of the same, learned Appellate Tribunal has taken note that no material is placed before it to substantiate the contention of the petitioner Corporation herein and allowed the claim made by the respondent herein by awarding Gratuity for 25 years of service and thereby directing the petitioner herein to pay the balance amount of Rs.23,323/- together with 10% of interest. The petitioner herein who is having the entire record with regard to the service rendered by the respondent herein, failed to produce any such material before the appellate authority. It is not the case of the petitioner herein that inspite of producing the relevant material, the same was not considered by the appellate authority.



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4. Taking into consideration of the same and the fact that the amount that was awarded by the impugned order dated 02.05.2018, directing the petitioner corporation to pay the respondent herein, is only Rs.23,323/-, this Court is not inclined to interfere with the said order passed by the appellate authority in P.G.A.No.89 of 2017.

5. Then, coming to the rate of interest awarded by the appellate authority under the impugned order at the rate of 10% is concerned, it is brought to the notice of the Court by the learned counsel for the petitioner that in the similar circumstances, this Court has considered in series of Writ Petitions and held that awarding of 10% interest is on higher side in terms of Section 7 (3A) of Payment of Gratuity Act and reduced the same to 8.5%. One such order passed by this Court in W.P.(MD)No.10486 of 2017 dated 10.02.2022 is also placed before this Court.

5. In the light of the above, this Court inclined to modify the impugned order restricting the rate of interest at 8.5%, instead of 10% awarded in the impugned order. Accordingly, Writ Petition is partly allowed. Consequently,



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the petitioner is directed to pay the entire gratuity amount payable to the petitioner under the impugned order together with interest at the rate of 8.5% within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition stands closed.

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

26.02.2024

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To

1. The Appellate Tribunal under payment of Gratuity Act, 1972,
Tiruchirappalli.



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MUMMINENI SUDHEER KUMAR, J.

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Order made in
W.P.(MD)No.1240 of 2021
and
W.M.P(MD)No.1056 of 2021

Dated: **26.02.2024**