



W.P(MD).No.7633 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.7633 of 2022

and

W.M.P(MD)No.5770 of 2022

The Management,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Represented by its General Manager,
Madurai Region,
Bye Pass Road,
Madurai-625 016.

....Petitioner

Vs

1.The Controlling Authority for the
Payment of Gratuity,
The Assistant Commissioner of Labour,
Madurai.

2.K.Murugesan

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the 1st respondent in P.G.No.109 of 2019, dated 16.03.2021 as illegal and quash the same.

For Petitioner : Mr.J.Senthil Kumaraiah

For R1 : Mr.C.Baskaran
Government Advocate



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For R2

: Mr.S.Arunachalam

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ORDER

The present writ petition has been filed to call for the records relating to the impugned order passed by the 1st respondent in P.G.No.109 of 2019, dated 16.03.2021 as illegal and quash the same.

2. The petitioner is the Transport Corporation of the Madurai Region. The 2nd respondent was appointed as a Driver in the petitioner Corporation on 30.12.1985 and he retired from service on 31.03.2013. At the time of his retirement, the petitioner Management due to financial crisis, was not able to disburse the terminal benefits of their employees promptly. Hence, the employees of the petitioner Management had filed writ petitions which were allowed, following which the petitioner Management preferred a writ appeal before the Hon'ble Division Bench of this Court in W.A(MD)Nos.383 to 457 of 2015. The Hon'ble Division Bench of this Court in the said writ appeal issued directions considering the financial constraints of the Transport Corporation, to settle the terminal benefits of the employees in 12 equal monthly instalments with 6% interest on 12.06.2015. Pursuant to the same, the Management implemented the said order and disbursed the retirement benefits to the various employees. Presently, the Management is disbursing the terminal benefits to its employees in a single payment with 6% interest.



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Accordingly, on 23.05.2017, the Management settled the 2nd respondent's terminal benefits including gratuity amount of Rs.3,72,785/- after a delay of 4 years. For the belated payment of gratuity, interest of 6% has been calculated and an amount of Rs.91,000/- in that regard was also settled to him. Thereafter, the 2nd respondent approached the 1st respondent claiming 10% interest towards belated payment of his gratuity and he also claimed his total eligible service as 27 years and sought for the difference amount with interest. The Management filed a detailed counter by denying his claim. However, the 1st respondent passed the impugned order directing the Management to pay balance gratuity amount of Rs.14,874/- along with 10% interest from the date of retirement till the date of actual payment and to pay Rs.60,769/- as balance of interest to belated settlement of gratuity. Challenging the same, this writ petition came to be filed.

3. Heard the learned counsels on either side and perused the materials available on record.

4. It is brought to the notice of the Court by the learned counsel for the 2nd respondent that the petitioner has filed this writ petition without exhausting the appeal remedy available under Section 7 of the Payment of Gratuity Act, 1972 before the Joint Commissioner of Labour.



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5. Taking the same into consideration, this Court without interfering with the impugned order, gives liberty to the petitioner to prefer an appeal exhausting appeal provision under the Payment of Gratuity Act, 1972 as against the impugned order.

6. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

23.02.2024

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

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To

The Controlling Authority for the
Payment of Gratuity,
The Assistant Commissioner of Labour,
Madurai.



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L.VICTORIA GOWRI, J.

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