BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) Nos.16402, 16403, 16556, 16557, 17351, 20141, 20355, & 21059 of 2022

W.P.(MD) No.16402/2022 :

S.Balasubramanian ... Petitioner

-vs-

1.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Represented by its Managing Directing,
Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Trichy.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 02. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the impugned calculation of commutation interest dated Nil furnished by the 3rd respondent, quash the same in so far as calculation of interest at 6% per annum on the 1/3rd surrendered portion of monthly pension instead of calculating interest for the lumpsum amount of commutation of Rs.5,65,043/- which was settled to the petitioner belatedly on 20.09.2019 and consequently direct the respondents to calculate interest at 6% per annum for the period from 01.08.2018 to 20.09.2019 for the entire lumpsum amount of commutation of Rs.5,65,043/- settled to him and pay the same after adjusting Rs.2559/- already paid to him.

For Petitioner : Mr.A.Rahul

For Respondents 1 & 2 : Mr.K.Jagadeesh Balan

For Respondent 3 : Mr.S.C.Herold Singh

COMMON ORDER

The instant Writ Petitions have been filed by the retired employees of the respondent Transport Corporation, challenging the calculation of interest on the belated payment of commuted value of pension.

2. The petitioners herein, who had retired on various dates, approached this Court, seeking a mandamus, directing the respondent Transport Corporation to settle interest for the belated payment of their terminal benefits, including gratuity, provident fund, leave salary and commuted value of pension from the date of their retirement till the date on which the benefits were settled by the Corporation.

3. This Court, by an order, dated 04.11.2019, in various writ petitions, including the one in W.P.(MD) No.23132 of 2019, had directed the Transport Corporation to pay interest at the rate of 6% per annum for the belated payment by way of 12 equated monthly instalments on or before 10th of every English Calender month, the first instalment of which was directed to be paid on or before 10th of February,2020.

4. Pursuant to the above said orders of this Court, the respondent Transport Corporation has paid interest to the writ petitioners for all the terminal benefits, namely, gratuity, leave salary and provident fund. However, for the belated disbursal of the commuted value of pension, the transport Corporation has chosen to calculate interest on the basis of the recovery made from the employees concerned from their pension instead of calculating interest on the lumpsum amount, which is expected to be paid as commuted value of pension on the date of their retirement. This calculation is under challenge before this Court.

5. According to the learned counsel appearing for the writ petitioner, the commuted value of pensionary benefit also forms part of the terminal benefits and, therefore, the order of this Court, directing the authorities to pay interest at 6% per annum, was on the lumpsum payment, which the Corporation was expected to disburse on the date of retirement, and the Corporation cannot calculate interest on the basis of the recovery made from the employees as if the commuted value of pension has already been paid to them.

6. Per contra, learned counsel for the Transport Corporation has contended that the commuted value of pension was disbursed belatedly to the employees after a period of one year and, during that one year period, 1/3 pension was deducted unauthorisedly; therefore, interest was levied upon this unauthorised deduction of 1/3 pension, and the amount, that was arrived at, was paid to the employees, as directed by this Court. According to the learned counsel for the respondents, the calculation of interest is correct and they have already complied with the orders of this Court.

7. I have carefully considered the submissions made on either side and also perused the material available on record.

8. This Court has specifically directed the respondent Transport Corporation to pay interest at the rate of 6% per annum due to the belated payment of terminal benefits. The prayer in those writ petitions will clearly indicate that for the belated disbursement of commuted value of pension also, interest was sought for.

9. As per Rule 17-A of the Tamil Nadu State Transport Corporation Pension Rules, the employees are entitled to opt for commutation of pension up to a maximum of 1/3 of their pension and the said amount has to be paid to the employees on the date of retirement or on the next day. Therefore, it forms part of the terminal benefits of the employee concerned.

10. In the present case, the commuted value of pension has not been disbursed on the due date, but, it has been disbursed one year thereafter. However, the Transport Corporation has proceeded to pay only 2/3 pension to the employees for that one year period as if they have already disbursed the commuted value of pension. Not only that, the Corporation has proceeded to calculate interest for the unauthorised payment of 1/3 alone and paid interest to the employee.

11. Considering the fact that the commuted value of pension is a statutory right of a retired employee and he or she is entitled to receive the same on the date of retirement or on the next day, any delay on the part of the employer would always attract interest. In the instant case, the modus adopted by the Transport Corporation of levying interest on the unauthorised

deduction of 1/3 pension is not correct. Therefore, the impugned calculation is hereby set aside and the respondent Transport Corporation is directed to calculate interest at the rate of 6% per annum on the commuted value of pension (instead of recovered amount from the writ petitioners), and pay the said interest within a period of eight weeks from the date of receipt or production of copy of this order.

12. Writ Petitions stand allowed. No costs. Consequently, the connected W.M.P.(MD) No.14645 of 2022 is closed.

13.08.2024

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

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R.VIJAYAKUMAR, J.

dixit

W.P.(MD) No.16402 of 2022 & Batch

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