IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 07.04.2025
PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P. No. 6111 of 2021
and
W.M.P. No. 6729 of 2021

The Management,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd,
No.3/137, Saalamedu,
Villupuram – 605602 …. Petitioner

Vs.

1. The Presiding Officer,
   Additional Commissioner for Labour,
   Appellate Authority for
   Payment of Gratuity Act,
   DMS Complex, Teynampet,
   Chennai – 600 006.

2. G.Kesavan,
   S/o. Govindan,
   No.6, Milagu Mariamman Koil Street,
   Ulundurpet Post,
   Villupuram – 606 107. …..Respondents

Prayer in W.P.

To issue a writ of certiorari, or order, or direction in the nature of writ, to call for the records relating to the order dated 26.03.2018 passed in P.G.A.No.125

of 2017 and quash the same on the file of the 1st respondent and pass such or other orders as this Hon'ble Court may deem fit and proper in the interest of justice in the facts and circumstances of the case

Prayer in WMP

To stay the operation of the award dated 26/03/2018 passed in P.G.A.No.125 of 2017 on the file of the 1st respondent, pending disposal of the writ petition.

Appearance of Parties:

For Petitioner : Mr. M. Aswin, Advocate

For Respondent 1 : Mr. Kumaravel, AGP

For Respondent 2 : Mr.F.W.H.Pithasan, Advocate
For K.Arunagiri, Advocate.

JUDGMENT

Heard.

2.The petitioner is a State-owned Transport Corporation. The present writ petition has been filed challenging the order passed by the 1st respondent, the Appellate Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as the "P.G. Act"), wherein interest at the rate of 10% was awarded for the delayed payment of gratuity under Section 7(3A) of the Act.

3.When the matter was taken up on 10.03.2021, this Court, while ordering notice in the writ petition, directed the petitioner–Transport

Corporation to deposit a sum of Rs.60,000/- to the credit of P.G. Appeal No. 125 of 2017 on the file of the 1st respondent. Thereafter, on 21.04.2021, private notice was also directed to be served on the contesting respondent. The contesting respondent has since entered appearance through counsel. When the case was listed on 23.04.2024, it was directed to be posted before the National Lok Adalat scheduled for 08.06.2024. However, as no settlement was reached, the matter has now been placed before this Court for final adjudication.

4.The short question that arises for consideration is whether the first respondent–Appellate Authority was justified in reversing the order of the Controlling Authority passed in P.G. Case No. 122 of 2014 dated 11.08.2016, and in allowing the appeal filed by the second respondent in P.G.A. No. 125 of 2017 dated 26.03.2018 by directing payment of interest at 10% on the delayed gratuity. If such a direction is found to be unjustified, the further issue is what rate of interest ought to have been ordered in the circumstances of the case.

5.The petitioner–Corporation does not seriously dispute the liability to pay interest for the delay in disbursing gratuity. However, its primary grievance is that the rate of interest fixed at 10% is excessive and ought to have been restricted to 6%, as held earlier by a Division Bench of this Court in W.A. No. 655 of 2018 dated 09.07.2018. This contention is specifically raised in paragraphs 6(d) and 6(e) of the writ affidavit, which read as follows:—

> "(d)The learned 1st respondent has failed to consider the dictum laid by the Division Bench of this Hon'ble Court by an order dated 09.07.2018 passed in W.A.No. 655 of 2018 in and by which this Hon'ble Court was graciously pleased to direct the petitioner to disburse the terminal benefit only at a reasonable rate of interest at 6%. P.a.
> (e) In any event the order passed by the learned 1st respondent has to be modified by reducing the rate of interest in consonance with the judgment passed by this Hon'ble Court by an order dated 09.07.2018 passed in W.A.No.655 of 2018."

6.The Payment of Gratuity Act, 1972, statutorily empowers the competent authority under Section 7(3A) to award interest in cases where the gratuity amount is not paid within 30 days from the date it becomes payable. The Hon'ble Supreme Court, in **H. Gangahanume Gowda v. Karnataka Agro Industries Corporation Ltd., reported in (2003) 3 SCC 40,** has categorically held that an employer cannot escape liability for payment of interest on delayed gratuity. The relevant portion of the judgment is extracted below:—

> "Since the employer did not satisfy the mandatory requirements of the proviso to Section 7(3A), no discretion was left to deny the interest to the appellant on belated payment of gratuity. Unfortunately, the Division Bench of the High Court, having

found that the appellant was entitled for interest, declined to interfere with the order of the learned Single Judge as regards the claim of interest on delayed payment of gratuity only on the ground that the discretion exercised by the learned Single Judge could not be said to be arbitrary. In the first place in the light of what is stated above, the learned Single Judge could not refuse the grant of interest exercising discretion as against the mandatory provisions contained in Section 7 of the Act. The Division Bench, in our opinion, committed an error in assuming that the learned Single Judge could exercise the discretion in the matter of awarding interest and that such a discretion exercised was not arbitrary.

In the light of the facts stated and for the reasons aforementioned, the impugned order cannot be sustained. Consequently, it is set aside. The respondent is directed to pay interest @ 10% on the amount of gratuity to which the appellant is entitled from the date it became payable till the date of payment of the gratuity amount."

7.The Supreme Court in **Y.K. Singla v. Punjab National Bank, reported in (2013) 3 SCC 472,** reaffirmed the principle that interest is payable for delayed payment of gratuity. However, in that case, the Court fixed the rate of interest at 8% per annum. The relevant portion of the judgment is as follows:-

" Under the Gratuity Act, the appellant would be entitled to interest, on account of delayed payment of gratuity (as has already been concluded above). We therefore hold, that the appellant herein is entitled to interest on account of delayed payment, in consonance with sub-Section (3A) of Section 7 of the Gratuity Act. We, accordingly, direct the PNB to pay to the appellant, interest at "…the rate notified by the Central Government for repayment of long term deposits…". In case no such notification has been issued, we are of the view, that the appellant would be entitled to interest, as was awarded to him by the learned Single Judge of the High Court vide order dated 4.5.2011, i.e., interest at the rate of 8%. The PNB is directed, to pay the aforesaid interest to the appellant, within one month of the appellant's furnishing to the PNB a certified copy of the instant order. The appellant shall also be entitled to costs quantified at Rs.50,000/-, for having had to incur expenses before the Writ Court, before the Division Bench, and finally before this Court. The aforesaid costs shall also be disbursed to the appellant within the time indicated hereinabove."

8.However, this Court has, in several cases involving the very same Corporation, fixed varying rates of interest depending on the facts and circumstances. In **V. Sundararajan v. The Chairman-cum-Managing Director, Nuclear Power Corporation of India Ltd., reported in CDJ 2024 MHC 6150**, the Court fixed the interest rate at 10% per annum. In paragraphs 9 and 10 of the said order, the following observations were made:

"9. Since the applications were sent by the petitioner which were received by the respondent on 16.11.2012 and since the gratuity was paid on 14.02.2013, there is a delay of two months and twenty eight days in payment of gratuity. Therefore, considering Section 7(3)(A) of the Payment of Gratuity Act, 1972, the petitioner is entitled for the interest for belated payment of gratuity.

> 10. In view of the above, the Writ Petition is allowed, directing the respondents to pay the interest for a period two months and twenty eight days for belated payment of gratuity of Rs.3,30,268/- at the rate of 10% per annum, within four weeks from the date of receipt of copy of this order"

9.However, learned counsel for the petitioner–Corporation placed reliance on the judgment of another learned Judge of this Court in **E. Vajiravelu v. The Managing Director, Metropolitan Transport Corporation (Chennai) Ltd., passed in W.P. No. 4045 of 2022 dated 25.02.2022**, wherein the Court, in paragraphs 4 and 7, held as follows:—

> "4....In this backdrop, Learned Counsel for the Petitioner states that having regard to the current rate of interest on fixed deposits, the Petitioner would be satisfied if interest at the rate of 4% per annum is granted for the delayed payment of gratuity, and he has made an endorsement to that effect in the court record."
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> "7. In view of the foregoing discussion, it would be appropriate to grant interest for belated payment at the current rate of 4% per annum from the date of retirement till the date on which the respective terminal benefits, viz., gratuity, employees provident fund, leave salary and commutation of pension, were paid, and the Respondents shall make payment of the said amount to the Petitioner along with working-sheet showing the calculation under written acknowledgment and file report of compliance in that regard by 31.05.2022 before the Registrar (Judicial) of this Court..."

10.To ascertain the applicable rate of interest on long-term deposits as prescribed by the Central Government, the learned Judge referred to an earlier decision in **General Manager / Administration, Tamil Nadu State Transport Corporation (Kumbakonam) Limited v. D. Duraidhanapal, in W.P. (MD) Nos. 2334 to 2357 of 2019, dated 01.02.2019,** and extracted the following passage from paragraph 5 of the judgment:—

> "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."

11.Although the learned Judge referred to an earlier decision to ascertain the interest rate fixed by the Central Government—and in that case, based on government rates, the interest was fixed at 8.5% for delayed payment—in the present case, the learned Judge appears to have been persuaded to fix the interest rate at only 4%. This conclusion seems to have been influenced by the submission of the Corporation's counsel, who contended that the prevailing rate of interest on fixed deposits was 4%. However, this submission does not reflect the actual market scenario, as most scheduled banks currently offer interest rates ranging between 7% and 9% for long-term deposits, with an additional 0.5% benefit typically extended to senior citizens.

12.Interestingly, the same learned Judge, in a subsequent case, granted interest at the rate of 6% on delayed gratuity payments after following the Division Bench judgment in **V. Vijayakumar v. The Managing Director, rendered in W.P. (MD) No. 11669 of 2021 dated 27.07.2021.** The relevant portion of the order reads as follows:—

> "7. The Division Bench of this Court in V.Rajendran -vs- Management of Tamil Nadu State Transport Corporation (Kumbakonam) Limited (Order dated 12.07.2021 in W.A. (MD) Nos. 1349 and 1350 of 2021) has fixed the current rate of interest at 6% per annum for delayed payment of terminal benefits in the case of similarly placed retired employees of the Transport Corporations across the State.
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> 8. The result of the foregoing discussion is that the Petitioner shall be entitled to interest at the rate of 6% per annum for his retirement benefits, viz., gratuity, leave salary, commutation of pension and provident fund, from the date of retirement till the date on which his terminal benefits were paid and the Respondents shall make payment of the same to the Petitioner under written acknowledgment along with working-sheet showing the calculation and file report of compliance in that regard by 31.10.2021 before the Registrar (Judicial) of this Court."

13.When the statute itself empowers the authorities to award interest under Section 7(3A) of the Payment of Gratuity Act, it is not open to this Court to prescribe varying rates of interest for delayed payment. Section 7(3A) stipulates a maximum interest rate of 10%, while also incorporating a degree of flexibility by linking the applicable rate to the interest payable by the Central Government on long-term deposits. Although the statutory ceiling is 10%, the provision allows for adjustment based on prevailing financial conditions. However, for reasons best known to it, the Central Government has not revised this benchmark rate in recent years, and it continues to hover around 8.5% to 8.7%. Therefore, while the Court may exercise discretion to award a rate lower than 10% in appropriate cases, it would not be justifiable to fix a rate below 8.5%, which reflects the most recent applicable standard.

14.In light of the above discussion, the writ petition filed by the petitioner–Corporation is disposed of with a modification to the order passed by the first respondent–Appellate Authority. The second respondent shall be entitled to interest at the rate of 8.5% per annum on the delayed payment of gratuity. Since a sum of Rs.60,000/- has already been deposited pursuant to the interim order of this Court, and the interest calculated at 8.5% amounts to

Rs.59,100/-, the balance of Rs.900/- (rounded off to Rs.1,000/-) shall be treated as additional interest in view of the fact that the respondent was denied the benefit of utilising the amount for over four years. Accordingly, the second respondent is permitted to withdraw the entire amount lying in deposit. The writ petition is disposed of on these terms. Consequently, the connected miscellaneous petition is dismissed. There shall be no order as to costs.

29.05.2025

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NCC : Yes / No

Index : Yes / No

Speaking Order / Non-speaking Order

To

The Additional Commissioner for Labour,
(Appellate Authority for
Payment of Gratuity Act)
DMS Complex, Teynampet,
Chennai – 600 006.