

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 16967 of 2010 (U)

PETITIONER :

K.SOBHA, RETIRED LECTURER IN CHARGE OF PRINCIPAL,
NEHRU ARTS AND SCIENCE COLLEGE, KANHANGAD,
NOW RESIDING AT 39/1646, CHITTOOR ROAD, VALANJAMBALAM,
KOCHI-682016.

BY ADVS.SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
SRI.K.S.BALAKRISHNAN

RESPONDENTS :

1. THE DIRECTOR OF COLLEGIATE EDUCATION,
TRIVANDRUM.
2. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
KOZHIKODE.
3. THE UNIVERSITY OF KANNUR REPRESENTED
BY ITS REGISTRAR, KANNUR.
4. THE PRINCIPAL, NEHRU ARTS AND SCIENCE COLLEGE,
KANHANGAD, KASARAGOD DISTRICT.
5. THE SUB TREASURY OFFICER,
PENSION PAYMENT TREASURY, ERNAKULAM.
6. THE ACCOUNTANT GENERAL (A & E),
KERALA, TRIVANDRUM.

R3 BY ADV. SRI.M.SASEENDRAN, SC, KANNUR UNIVERSITY
BY SR.GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

- EXT.P1 : COPY OF THE LETTER DTD.17.7.2009 OF THE 6TH RESPONDENT TO 2ND, 4TH RESPONDENTS AND TO THE PETITIONER.
- EXT.P2 : COPY OF THE LETTER DTD.26.3.2010 OF THE 1ST RESPONDENT TO 4TH RESPONDENT.
- EXT.P3 : COPY OF THE ORDER DTD.21.1.2010 OF THE 6TH RESPONDENT.
- EXT.P4 : COPY OF THE LETTER DTD.29.4.2009 OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.16967 of 2010

Dated this the 02nd day of June, 2015

JUDGMENT

The petitioner retired from service on 31.3.2009 while working as Lecturer-in-charge of Principal in Nehru Arts and Science College, Kanhangad. He has approached this Court in this Writ Petition aggrieved by non-disbursal of his DCRG, delayed payment of P.F. amount and other terminal benefits. The petitioner has sought for a writ of mandamus commanding respondents to release the DCRG amount together with interest @ 12% per annum from 1.4.2009 till the date of payment and 12% interest for the P.F. amount, monthly pension for the period from 1.4.2009 to 26.5.2010 and the commuted value of pension.

2. Going by the averments in the Writ Petition, though the petitioner retired from service on 31.3.2009 the DCRG amount was not paid till the date of filing of the Writ Petition. The petitioner received P.F. amount of ₹.18,05,897/- only on 18.5.2010 and the pension up to May, 2010 only on 26.5.2010. Therefore, according to the petitioner, various terminal benefits due to him were

disbursed with inordinate delay. Ext.P1 is the pension sanctioning order which would show that the petitioner was sanctioned with a monthly pension of ₹.13,662/- with effect from 1.4.2009, DCRG amount of ₹.3,30,000/- and commuted value of pension of ₹.7,48,787/-. On commutation of pension the monthly pension of the petitioner was reduced and fixed at ₹8,198/-. In Ext.P1 it has been stated that, immediate arrangement may be made to forward LPC and NLC and No Event Certificate and that, delay in furnishing the documents will be viewed seriously and the persons responsible for the delay will be held liable to pay the monetary loss sustained by the petitioner and the Government. Ext.P2 communication of the 1st respondent addressed to the 4th respondent would show that, the P.F. account of the petitioner was closed with interest and authorisation of ₹18,05,897/- was enclosed along with Ext.P2. Ext.P3 is the Gratuity Payment Order by which the amount of gratuity sanctioned comes to ₹3,30,000/-. Ext.P4 letter of the 4th respondent, addressed to the 2nd respondent would show that, the LPC and NLC in respect of the petitioner was forwarded to the 2nd

respondent along with Ext.P4 and it was also mentioned in Ext.P4 that the NLC will be forwarded to the 2nd respondent after the Local Audit for the period. It was due to the delay in disbursement of the terminal benefits, the petitioner has approached this Court in this Writ Petition seeking various reliefs.

3. A counter affidavit has been filed on behalf of the 1st respondent contending, inter alia, that the disbursement of various pensionary benefits due to the petitioner was not delayed due to any latches on the part of the Department. Going by the counter affidavit the 6th respondent by Ext.P3 sanctioned a sum of ₹3,30,000/- towards DCRG payable to the petitioner and forwarded a copy of the said order to the Treasury Officer, Pension Payment Sub Treasury, Ernakulam for arranging payment on production of NLC. As per the Pension Rules, the liability, if any, against the petitioners will be realised from their DCRG amount. The 2nd respondent conducted Audit Enquiry for the tenure of the petitioner's Principalship at Nehru Arts and Science College, Kanhangad and fixed a liability of ₹2,005/-, vide letter dated 15.6.2010 and reported the same to the

first respondent. The first respondent prepared the departmental liability certificate, vide letter dated 22.6.2010 and forwarded the same to the Treasury Officer, Pension Payment Sub Treasury, Ernakulam with a request to disburse the DCRG of the petitioner after withholding ₹2,005/- towards his liability.

4. According to the 1st respondent, Chapter IV, Para 50 of the Statute prescribes that the subscriber may at any time during the last year of the service immediately proceeding the date of his retirement elect not to subscribe to the PF and immediately apply for the closure to the Accounts Officer through the Zonal Deputy Director's Office. Though the petitioner stopped her subscription, she applied for closure of PF only one year after the retirement. Her application was received in the office on 16.2.2010 which was processed and finally closed with interest up to the date of retirement, i.e., till 31.3.2009 and authorisation for ₹18,05,887/- was issued to the Principal of the College on 26.3.2010.

5. Relying on Rule 110, Part III of KSR the 1st respondent would contend that every employee should submit his/her pension

papers to the Pension Sanctioning Authority at least one year in advance to his/her anticipated retirement. But in case of the petitioner, the pension papers were submitted to the Pension Sanctioning Authority i.e., to the 1st respondent only on 31.3.2009 i.e. on the date of her retirement. The pension papers of the petitioner were processed in the office of the 1st respondent and a proposal was forwarded to the 6th respondent vide letter dated 7.11.2009 with a request to authorise the terminal benefits. Accordingly the 6th respondent authorised the pensionary benefits of the petitioner and forwarded an intimation to the Treasury Office, Pension Payment Sub Treasury, Ernakulam on 21.1.2010 for arranging payment. Therefore, according to the 1st respondent, the delay in disbursing the pensionary benefits due to the petitioner occurred mainly due to delayed submission of the pension papers by the petitioner. The 1st respondent has also stated that, the 2nd respondent conducted the Audit Enquiry of the petitioner's tenure as Principal in Nehru Arts & Science College, Kanhangad and fixed ₹. 2,005/- as her liability and reported the same to the 1st respondent.

Accordingly the 1st respondent prepared the departmental liability certificate showing the liability of ₹2,005/- and forwarded to the Sub Treasury Officer, Pension Payment Treasury, Ernakulam with a request to release the DCRG amount payable to the petitioner, after withholding the liability amount. Therefore, it is the contention of the 1st respondent that the delay on payment of the pensionary benefits due to the petitioner occurred from the end of the petitioner in submitting her pension papers to the Pension Sanctioning Authority in time and in such circumstances she is not entitled to get any interest.

6. Heard the arguments of the learned counsel for the petitioner and the learned Senior Government Pleader for the respondents.

7. The learned counsel for the petitioner relying on the judgment of the Apex Court in **S.K.Dua Vs. State of Haryana and another [(2008) 3 SCC 44]** would contend that, the petitioner is entitled for interest on delayed payment of terminal benefits. Per contra the learned Senior Government Pleader would contend that,

as evident from the facts stated in the counter affidavit of the 1st respondent, payment of terminal benefits due to the petitioner was delayed mainly due to belated application submitted by the petitioner and also due to the time taken for processing that belated application.

8. The fact that the petitioner was disbursed with all the retirement benefits except the DCRG amount of ₹.3,30,000/- is not in dispute. As far as the payment of the aforesaid amount towards the DCRG is concerned, the learned counsel has not disputed the fact that, in order to disburse the said amount, the liability certificate submitted by the 5th respondent was forwarded to the Pension Payment Treasury Officer, Ernakulam, only vide letter No.M3/36073/2009/Coll.Edn. dated 22.6.2010 of the 1st respondent and immediately after the filing of this Writ Petition the petitioner was disbursed with the DCRG after deducting the liability of ₹2,005/-. Going by the averments in the counter affidavit filed on behalf of the 1st respondent, there was delay on the part of the College Authorities in forwarding the pension papers of the petitioner

and also the liability certificate for releasing the DCRG. There was delay in submitting the application for closure of P.F. as well. Therefore, from the facts borne out from the pleadings and documents on record, the delay in disbursement of terminal benefits payable to the petitioner occurred mainly due to the delay on the part of the petitioner and also the college authorities. In such circumstances, this is not a fit case in which this Court will be justified in directing the departmental authorities to pay interest to the petitioner for delayed payment of terminal benefits. If the petitioner wants to pursue her right to claim interest for the delayed payment of pensionary benefits from the 4th respondent, it is for her to approach the competent civil court by filing a suit.

In such circumstances this Writ Petition is dismissed without prejudice to the right of the petitioner to move the competent civil court seeking appropriate reliefs.

ANIL K.NARENDRA, JUDGE

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