

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.P.RAY

MONDAY, THE 18TH DAY OF FEBRUARY 2013/29TH MAGHA 1934

WP(C).No. 26416 of 2004 (T)

PETITIONER:

**K.G. MATHAI, FIELD ASSISTANT,
DHONI FARM, KIZHAKKETHIL HOUSE, VADAKKUMPADAM,
VANIMABALAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.N.N.SASI.

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, AGRICULTURAL DEPARTMENT, SECRETARIAT,
TRIVANDRUM.**
- 2. MANAGING DIRECTOR,
KERALA LIVE STOCK DEVELOPMENT AND MILK MARKETING BOARD LTD.,
MANI BHAVAN, SASTHAMANGALAM, TRIVANDURM.**
- 3. THE SUPERINTENDENT, DHONI FARM,
PALGHAT.**

**R1 BY GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN,
R2 BY SMT.SUMATHY DANDAPANI, SENIOR ADVOCATE.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-02-2013, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Prv.

W.P.(C). NO.26416/2004-T:

J U D G M E N T

None appears.

Dismissed for default.

18/02/2013.

SD/- B.P.RAY, JUDGE.

//TRUE COPY//

P.A. TO JUDGE

Prv.

P.V.ASHA, J.

W.P.(C).No.26416 of 2004

Dated this the 18th day of September, 2015

J U D G M E N T

Petitioner claims interest on delayed payment of pensionary benefits. According to him he retired from service on 31.10.1986 and since pensionary benefits were paid to him only on 22.6.2001, he is entitled to interest.

2. The case of the petitioner in this writ petition is that while he was working as a Field Assistant under the 2nd respondent, he applied for leave for employment abroad on loss of pay for the period from 07.10.1975 to 30.08.1980. He further submits that he applied for extension of leave for 5 years more, in the light of G.O.1529/79/GAD dated 06.03.1979, which, according to the petitioner, permits foreign employment for 15 years at a stretch. The petitioner's further case is that when he reported for duty on 10.09.1984, the Superintendent did not permit him to re-join duty and started disciplinary proceedings for unauthorized absence. Further, he states that the matter was reported to the Managing Director of the Kerala Live Stock Development and Milk Marketing Board Ltd., (hereinafter

referred to as 'Board') and an original petition was filed before this Court and as a result, the disciplinary proceedings were finalized by the departmental authorities. But pensionary benefits were paid to him only on 22.06.2001. Further, he submits that the Board decided to pay the pending arrears of pension for the period from 01.11.1986 to 30.06.2011 by treating his unauthorized absence as leave without allowance. A lawyer notice Ext.P1 was sent on 7.2.2004, demanding interest. Respondent did not respond to it. It is, in these factual circumstances, the petitioner has filed this writ petition, claiming interest for delayed pensionary benefits.

3. It is pertinent to note that the petitioner has not furnished any details regarding the date on which he submitted application for leave, orders by which the leave was sanctioned, or rejected or the orders by which disciplinary proceedings against him were finalized. However, the petitioner claims interest on delayed payment of pensionary benefits made to him, merely mentioning the date of retirement and date of payment of pension.

4. The 2nd respondent-the Managing Director of the

Board has filed a counter affidavit. From the counter affidavit filed by the 2nd respondent it is seen that the petitioner was on unauthorized absence since 6.12.1980. His application for leave was rejected by the Government on 11.1.1981 and disciplinary action was initiated against him and he was placed under suspension as per order dated 1.9.1984. He attained the age of superannuation while under suspension. It is further stated that the Government, who is the competent authority to finalize disciplinary action, issued orders directing to treat the period of absence as leave without allowance only on 6.6.2000 and pensionary benefits were paid to him in June, 2001.

5. The petitioner has not filed any reply affidavit in answer to the contentions in the counter affidavit, which is admittedly served on him in June, 2006. It is also pertinent to note that the petitioner kept quiet all these years despite the fact that he attained superannuation on 31.10.1986.

6. From the pleadings, it is clear that the petitioner has claimed interest, without disclosing the factual circumstances as to the suspension or the finalisation of disciplinary action initiated against him.

In the above circumstances, I do not find any circumstance warranting interference by this Court under Article 226 of the Constitution of India. Hence, I dismiss this writ petition.

Sd/-
(P.V.ASHA, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG