

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.3.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.2118 of 2014

T.Sampath

... petitioner

versus

1.The State of Tamil Nadu,
rep. By Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 9

2.The District Collector,
Panchayat Development Wing,
Krishnagiri District.

... respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records on the file of the 2nd respondent herein in his proceedings No.20900/2012/K1 dated 5.9.2013 and quash the same and to consequently direct the respondents to pay 12% interest (compounded annually) on the delayed payment of all retirement and pensionary benefits after deducting a sum of Rs.28,891 and to pay the entire amount.

For petitioner : Mr.M.Ravi
For respondent : Mr.M.S.Ramesh,
Additional Government Pleader

सत्यमेव जयते
O R D E R

The claim made by the petitioner for payment of interest on account of belated payment of retirement benefits was rejected by the second respondent. The said order is under challenge in this Writ Petition.

Facts in brief :-

2. The petitioner was initially appointed as Junior Assistant in Rural Development Department. The petitioner was ultimately promoted as Block Development Officer. While he was functioning as Block Development Officer, the Commissioner of Disciplinary Proceedings, Vellore, issued a charge memo to him in TDP DE No.2 of 2001 dated 5 March 2001. The petitioner was due to retire on 30 November 2002. Since the charge memo was pending, the petitioner was placed under suspension by proceedings dated 30 November 2002. There were two

other disciplinary proceedings initiated against the petitioner. The Government have passed orders in all these proceedings. The Government by order dated 8 June 2006, permitted the petitioner to retire from service. The petitioner was paid retirement benefits after the culmination of disciplinary proceedings. However, he was not paid interest. The petitioner claimed interest for the delayed period. The claim was rejected on the ground that it was only on account of the pendency of disciplinary proceedings, payment was delayed and as such, the Government is not liable to pay interest.

3. The District Collector, Krishnagiri, in his counter affidavit justified the impugned order. According to the District Collector, it was not possible to disburse the benefits on account of the pendency of disciplinary proceedings initiated against the petitioner. The District Collector contended that immediately after the finalization of disciplinary proceedings, applicable benefits were all disbursed. The Government is therefore not liable to pay interest.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents.

Discussion :-

5. The petitioner was due to retire on 30 November 2002. Since disciplinary proceedings were pending against the petitioner, he was not permitted to retire. The District Collector vide proceedings dated 30 November 2002, placed the petitioner under suspension. It is also matter of record that by order dated 8 June 2006, the Government have sanctioned provisional pension to the petitioner.

6. There were three disciplinary proceedings pending against the petitioner. The disciplinary authority has awarded punishment of cut in pension @ Rs.100/- for a period of six months, by order dated 28 April 2006. Similarly, Disciplinary Authority passed an order dated 14 December 2010, directing recovery of a sum of Rs.24,888/- from DCRG and cut in pension @ Rs.100 for a period of six months. The Government have dropped further action with respect to the third charge by order dated 30 January 2012.

7. The moot question is whether the respondents are liable to pay interest to the petitioner on account of the delay in making payment.

8. The petitioner is entitled to a sum of Rs.2,08,973/- being the DCRG amount. In the normal course, DCRG amount should be paid to him on 1 December 2002, taking into account the date of retirement. It was paid only on 30 June 2013. The petitioner claimed interest for the commutation value of pension, which was also paid on 30 June 2013.

9. The pendency of disciplinary proceedings would not give a right to the respondents to keep DCRG indefinitely. The petitioner being a pensioner, there would not be any difficulty to recover the amount from his pension. Even after passing order to recover a sum of

Rs.24,888/-, balance amount was paid only on 30 June 2013. There is no justification for paying the amount with such an abnormal delay. There were no proceedings pending against the petitioner after 30 January 2012. The petitioner should have been paid the commutation value of pension and other benefits immediately after the finalization of disciplinary proceedings on 30 January 2012. It is not the case of the respondents that after dropping further action with respect to the third charge, by G.O.(D) No.44, Rural Department and Panchayat Raj Department, dated 30 January 2012, still there were charges pending against the petitioner. The petitioner is therefore perfectly correct in his contention that he was denied payment of amount due to him. The impugned order is therefore liable to be set aside.

10. The Supreme Court in D.D.Tewari (D) Through Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors., 2014 (9) Scale 78, indicated that in case the amount due to the employee is withheld, the same would give rise to a claim for payment of interest. The Supreme Court in the said case, found that the respondents have erroneously withheld payment of gratuity amount and therefore, a direction was issued to give interest @ 9% from the date of entitlement till the date of actual payment.

Disposal :-

11. In the result, the impugned order is set aside. The respondents are directed to pay interest for the DCRG amount for the period from 1 December 2012 to 30 June 2013. Similarly, interest should be paid towards computation value of pension for the period from 1 December 2002 to 30 June 2013. The payment should be made within a period of two months from the date of receipt of a copy of this order.

12. The Writ Petition is allowed to the extent indicated above. No costs. Consequently, M.P.No.1/2014 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 9

2.The District Collector,
Panchayat Development Wing,
Krishnagiri District.

+ 1 cc to Mr.M. Ravi, Advocate SR.16230

+ 1 cc Government Pleader Sr.16371

EV(CO)
EU 06.04.2015



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