

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.12059 of 2015

A.Rajaiah

... PETITIONER

Vs

1. The Chairman,
Airport Authority of India,
Safdarjung Airport,
New Delhi-110 003.
2. Regional Executive Director,
AAI, Southern Region,
Meenambakkam, Chennai-27.

... RESPONDENTS

Writ Petition filed under Article 226 of the Constitution of India for the issuance of the Writ of Mandamus, directing the 2nd respondent to pay interest at 18% per annum to the petitioner on the belated payment of gratuity and half pay leave from March 2011 to October 2014.

For petitioner : Mr.R.Subramanian

For respondents : Mr.Kadarkarai

O R D E R

With the consent of both parties, the Writ Petition is taken up for final disposal.

2. The petitioner retired as Deputy General Manager (F&A) S.G. in February, 2011.

3. However, his gratuity and half leave payments were not paid stating that disciplinary proceedings were pending against him.

4. The disciplinary enquiry resulted in favour of the petitioner and the charges were dropped. The disciplinary authority issued a proceedings vide Memorandum dated 16.05.2014 exonerating him from all the charges.

5. Thereafter, the petitioner was settled with gratuity and half leave pay without interest.

6. The petitioner made a representation dated 21.10.2014 to pay interest on the belated payments of gratuity and half leave payment. Since no interest was paid, he has approached this Court by filing this Writ Petition.

7. The learned Counsel appearing for the petitioner has relied on the Airports Authority of India Employees (Conduct, Discipline and Appeal) Regulations, 2003 and more particularly, Rule 33(2)(ii) which reads as follows:

"During the pendency of Disciplinary Proceedings, the Disciplinary Authority may withhold payment of gratuity, for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the Authority if the employee is found in a disciplinary proceedings or judicial proceedings to have been guilty of offences and misconduct as mentioned in sub-section (6) of Section (4) of the Payment of Gratuity Act 1972 or to have caused pecuniary loss to Authority by misconduct or negligence during his service, including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7(3A) of the Payment of Gratuity Act, 1972 should be kept in view of the event of delayed payment, in case the employee is fully exonerated."

7. If there is any belated settlement of benefits, a Division Bench of this Court has held in GOVERNMENT OF TAMIL NADU, REPRESENTED BY THE SECRETARY TO GOVERNMENT VS. M.DEIVASIGAMANI [2009 (3) MLJ 1], wherein, the judgment of the Honourable Supreme Court in S.K.DUA VS. STATE OF HARYANA [2008 (3) SCC 44] was relied on, that the employees are entitled to interest for the belated payment of settlement of terminal benefits as per the rules and if the rules do not provide for payment of interest, even then, the interest shall be paid.

8. In view of the Rule 33 of the Airports Authority of India Employees (Conduct, Discipline and Appeal) Regulations, 2003 and also the judgment referred to above, a direction is issued to the respondent to pay interest to the petitioner in respect of the

belated payment of gratuity and half pay leave from March, 2011 to October, 2014, in terms of the aforesaid regulations and also the judgment referred to above, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Airport Authority of India,
Safdarjung Airport,
New Delhi-110 003.
2. Regional Executive Director,
AAI, Southern Region,
Meenambakkam, Chennai-27.

+1cc to Mr.S.Kadarkarai, Advocate, S.R.No.35345
+1cc to Mr.R.Subramanian, Advocate, S.R.No.35112

RJ(CO)
CA(29/07/2015)

W.P.No.12059 of 2015

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