

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Cont.P. No.2545 of 2014

R.Ranganathan ... Petitioner

Vs

1.Mr.Shanmugam
The Secretary to Government
Finance department,
Chennai 9.

2.Kaleeshwar Subramaniam
The Director of Local Fund Audit
VI Floor, Kuralagam,
Chennai 600 108.

3.K.Baskaran
The District Collector
Kancheepuram District.

4.T.A.Muthukumaran
The Commissioner
Panchayat Union, Walajabad
Kanchipuram District. ... Respondents.

PRAYER : Petition filed under section 11 of the Contempt of Courts Act, to punish the respondents for contempt under the contempt of courts Act 1971 for his act of willful disobedience of order passed by this Court in Cont.P.No.1242 of 2012 in W.P.No.101 of 2008 dated 07.09.2012.

For Petitioner : Mr.E.Jaya Sankar

For Respondents : Mr.R.Vijayakumar R1 to R3
Addl.Govt. Pleader

Mr.V.Jayaprakash Narayanan - R4
Spl.Govt. Pleader

O R D E R

This contempt petition has been filed against the non-compliance of the order and direction issued by this Court in Cont.P. No.1242 of 2012 dated 07.09.2012 in W.P.No.101 of 2008.

2. It is admitted by the petitioner that all the amounts due and payable to the petitioner have been settled except interest on commuted value of pension. The Contempt Petition was heard on several dates, calculation sheets have been furnished and ultimately, the issue boils down only with regard to the claim of interest on the commuted value of pension.

3.It may be true that while disposing of the writ Petition, this Court specifically did not state that interest is payable on the commuted value of pension. Nevertheless, the writ petition was allowed by an order dated 12.09.2011, directing the respondents to pay the commuted full pensionary benefits by taking into consideration the date of regularisation of the petitioner's service as 01.12.1979 and pay all benefits as expeditiously as possible.

4.The direction issued by this Court would encompass the interest payable not only which has been given under the Statute, but in respect of all components of retiral

benefits, in the light of the decision of the Hon'ble Division Bench decision of this Court in the case of *THE GOVERNMENT OF TAMIL NADU v. M.DEIVASIGAMANI* [2009 (1) C.L.T.434], which was rendered on the basis of the decision of the Hon'ble Supreme Court in the case of *Dr.UMA AGARWAL v. STATE OF U.P.* [(1999) 3 SCC 438 and *S.K.DUE v. STATE OF HARYANA* [2008(3) SCC 44]. At this stage, it would be worthwhile to refer to the operation portion of the decision in the case of *S.K.DUE*, referred supra:

"5.The appellant submitted replies to the charge-sheets/ show cause notices, inter alia, denying allegations and asserting that they were uncalled for and were issued with *mala fide* intention and oblique motive. He further submitted that he had acted in public interest in salvaging damages likely to be caused to public exchequer. The replies submitted by the appellant were accepted by the authorities and the appellant was exonerated of all the charges. All retiral benefits were thereafter given to him between 11.6.2002 and 18.7.2002. Thus, according to the appellant though he retired in June 1998, retiral benefits to which he was otherwise entitled, were given to him after four years of his superannuation.

6.The appellant has stated that, in the aforesaid circumstances, he was entitled to interest on the amount which had been withheld by the respondents and paid to him after considerable delay. He, therefore, made several representations. He also issued legal notice on 3.6.2005 claiming interest at the rate of 18% per annum for delayed payment. He had invited the attention of the Government to administrative instructions issued by the Government under which an employee is entitled to claim interest. Even otherwise, the action of non-payment of interest was arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution. There was, however, no reply whatsoever from the Government. The appellant as a senior citizen of 65 years of age then approached the High Court of Punjab and Haryana by filing a writ petition under Article 226 of the Constitution. But the High Court summary dismissed the writ petition without even issuing notice to the respondents. The appellant has challenged the said order in the present appeal.

7.On 28.10.2005, notice was issued by this Court. Affidavits and further affidavits were filed thereafter and the Registry was directed to place the matter for final hearing. Accordingly, the matter has been placed before us for final disposal. "

5.In view of the above decisions, the petitioner is entitled for interest on belated payment of pension and other retiral benefits, even in the absence of Statutory Rules/Administrative instructions or Guidelines and he can make his claim for interest under paragraph No.3 of the Constitution of India, by placing reliance on Article 14,19 and 21 of the Constitution of India.

6.Therefore, even in respect of the commuted value of pension, the petitioner is entitled for interest. In fact, the second contemnor has correctly understood the scope of the direction issued by this Court and since there is no statutory provisions to grant such interest, they have rightly addressed the first respondent, Secretary to Government, Finance Department, vide proceedings dated 28.10.2015 in Na.Ka.No.29442/C.x/x/r/(5)/2013 and now the proposal is pending before the first respondent.

7.At this juncture, the learned Additional Government

Pleader submits that though the proposal has been forwarded to the Secretary to the Government, Finance Department, it has to be first approved by the Rural Development and Panchayat Raj, Chennai and only thereafter, the matter has to be considered by the Finance Department. In this regard, the District Collector has forwarded the proposal to the Joint Secretary, Rural Development and Panchayat Raj Department vide proceedings in Na.Ka.No.19861/2007/g.m4 dated 16.10.2015.

8.In the light of the above, the respondents 2 & 4 cannot be held that they have wilfully flouted the orders passed by this Court in the Writ Petition. So far as the payment of interest is concerned, there was no specific direction to the Government and therefore, they cannot also be hauled up for contempt. However, the fact remains that the proposal is pending and in the light of the decision of the Hon'ble Division Bench of this Court, the petitioner is entitled for interest on the commuted value of pension.

9.Accordingly, while closing the Contempt Petition, there will be a direction to the Secretary, Rural Development and Panchayat Raj, Chennai, to approve the proposal sent by the District Collector dated 16.10.2015, and then forward the same to the first respondent/ Secretary to Government, Finance Department and on receipt of the same, the first respondent shall pass appropriate orders so as to enable the petitioner to receive interest

on the commuted value of pension. The above exercise shall be complied within a period of three months from the date of receipt of a copy of this order.

Registry is directed to forward a copy of this order to the Joint Secretary, Rural Development and Panchayat Raj, Chennai.

rpa

SD/-
DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SS/CO/15/12/2015

One CC to Mr.E.Jayasankar, Advocate Sr.No.14343

To

1.The Secretary
Rural Development and Panchayat Raj,
Chennai.

2.The Secretary
Govt. of Tamikl Nadu,
Finance department, Chennai 9.

3.The Director of Local Fund Audit
VI Floor, Kuralagam,
Chennai 600 108.

4.The District Collector
Kancheepuram District.

5.The Commissioner
Panchayat Union, Walajabad
Kanchipuram District.

6.The Joint Secretary,
Rural Development and Panchayat Raj,
Fort St George,
Chennai.9