

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

W.P.No.1449 of 2014
and M.P.No.1 of 2014

R.K.GOVINDASWAMY

[PETITIONER]

Vs

1 THE SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT & PANCHAYAT RAJ DEPARTMENT
FORT ST GEORGE CHENNAI-9

2 THE DIRECTOR OF RURAL DEVELOPMENT
PANAGAL BUILDING SAIDAPET
CHENNAI-15

3 THE DISTRICT COLLECTOR
CUDDALORE DISTRICT

4 THE BLOCK DEVELOPMENT OFFICER
KUMARATCHI PANCHAYAT UNION
CUDDALORE DISTRICT

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the 1s respondent in connection with the impugned orders passed in Lr.No.28975/E6(1)/2013-1 dated 13.11.2013 and quash the same and further direct the respondents to pay compound interest @ 12% p.a. for the belated payment of retirement benefits namely commutation of pension GPF encashment of earned leave due to the petitioner within a reasonable time.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
for Mr.M.Muthappan
For Respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

The claim made by the petitioner for payment of interest on account of belated payment of terminal benefits was rejected solely on the ground that Rule 45 A of the Pension Rules provides for payment of interest only in case gratuity amount is belatedly paid.

2. The petitioner worked as Block Development Officer and on attaining the age of superannuation, retired on 31.03.1996. However, he was not paid the retirement benefits within a reasonable period. The respondents took several years to pay the amount like commutation of pension, General Provident Fund and encashment of earned leave. The petitioner, therefore, requested the respondents to pay interest @ 12% with effect from 01.07.1997, on account of such belated payment. The application was rejected on the ground that there is no provision to pay interest except for belated payment of gratuity amount.

3. Heard the learned Senior Counsel for the petitioner and the learned Additional Government Pleader for the respondents.

4. There is no doubt that the amount payable to the petitioner was paid only after a considerable period. It is trite that in case the party who is responsible for payment of the amount retains the said amount for a considerable period, such party is liable to pay interest. The fact that there is a provision for payment of interest for gratuity amount alone would not give a right to the respondent to retain the amount payable to the petitioner for years together, without paying interest.

5. The learned Senior Counsel for the petitioner placed reliance on the Judgment of this Court in the case of Government of Tamil Nadu, rep. by the Secretary to Government, Revenue Department vs. M.Deivasigamani [(2009) 3 MLJ 1], wherein, the Division Bench was pleased to observe that an employee is entitled to claim interest on belated payment of pension and other retiral benefits even in the absence of statutory rules/administrative institutions or guidelines.

6. The Hon'ble Supreme Court in the case of D.D.Tewari (D) Through Lrs. vs. Uttar Haryana Bijli Titran 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 Hon'ble Supreme court in the subject 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.

7. The claim made by the petitioner for payment of interest was rejected only on the ground of absence of provision for such payment. Once it is made out that the amount payable to the petitioner was not paid within a reasonable time, he is entitled to make a claim for interest.

8. In the result, the impugned order dated 13.11.2013 is set aside. The 1st respondent is directed to pay interest to the petitioner at the rate of 9% with effect from 1.7.1996. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. No costs. Connected miscellaneous petition is closed.

rg

-s/d-

Assistant Registrar (CS-II)

Dt:9/2/2015

True Copy

Sub-Assistant Registrar

To

- 1 THE SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT & PANCHAYAT RAJ DEPARTMENT
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KUMARATCHI PANCHAYAT UNION, CUDDALORE DISTRICT

+ 1 cc to Mr.M.Muthappan, Advocate SR 5801

gji(co)
prk9/2

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