

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :06.02.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.19873 of 2013

K. Kamalanabhan

...Petitioner

- Vs. -

1. Commissioner of Agriculture
Agriculture Department
Chepauk
Chennai-600 005.
2. Joint Director of Agriculture
Kancheepuram.
3. Government of Tamil Nadu
rep. by Secretary
Agriculture Department
Fort St. George
Chennai-600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records in Letter No.001/11871/2012 dated 27 June 2013 on the file of the second respondent and quash the same and direct the respondents to pay compound interest at the rate of 12% per annum on Rs.29,904/- for the period from 31 May 1997 to 28 February 2012, the arrears sum of Rs.29,904/- paid representing the gratuity, commutation of pension and pension arrears and also the compound interest due till date of payment of arrears of retirement benefits.

For Petitioner : Mr.S. Sadasharam

For Respondents : Mr.P. Sanjay Gandhi
AGP

ORDER

The claim made by the petitioner for payment of interest was rejected. The said order is under challenge in this writ petition.

2. The petitioner was an employee of agricultural department. The petitioner worked as Assistant and on attaining the age of superannuation retired from service. The petitioner was not paid gratuity amount besides commutation of pension and pension arrears. It was paid belatedly in January, 2011. The petitioner wanted the respondents to pay interest at the rate of 12% for the delayed period. The claim was rejected on the ground that there was no provision to pay interest. Feeling aggrieved, the petitioner is before this Court.

3. The only issue that arises for consideration is whether the petitioner is entitled to claim interest on account of delayed payment.

4. 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 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.

5. The respondents have no case that they have paid the amount within a reasonable period to the petitioner. When it is made out that the amount is retained for a considerable period, the petitioner is justified in his contention that he is entitled to get interest for the delayed period. I am therefore of the view that the second respondent was not correct in rejecting the request for payment of interest.

6. In the result, the impugned order dated 27 June 2013 is set aside. The second respondent is directed to pay interest at the rate of 9% for the delayed period. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7. The writ petition is allowed as indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Tr/

To

1. Commissioner of Agriculture
Agriculture Department
Chepauk
Chennai-600 005.
2. Joint Director of Agriculture
Kancheepuram.
3. The Secretary
Government of Tamil Nadu
Agriculture Department
Fort St. George
Chennai-600 009.

1 cc to Mr.S.Sadasharam ,Advocate, SR.No.6499
1 cc to Government Pleader,Sr.No6644/15

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pmk.29.2.2015

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