

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR. **JUSTICE R.SUBBIAH**

Writ Petition No.30028 of 2015

M.Premavathy

... Petitioner

VS.

1.The Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St. George,
Chennai-9.

2.The Additional Chief Secretary /
The Commissioner of Land
Administration,
Revenue Department,
Ezhilagam, Chepauk,
Chennai-5.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records relating to G.O.No.236 dated 28.5.2015 passed by the first respondent and quash the same in so far as the non-payment of interest on belated payments towards earned leave surrender, leave on private affairs and pay commission arrears, SPF 20, SPR 50 and salary further direct the respondents to pay interest for the belated

payment of the following terminal benefits:-

- | | | |
|--|---|---|
| 1. Pay commission arrears | : | 1.4.2008 to 23.7.2014
6 years 4 months |
| 2. Earned leave surrender | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 3. Surrender on leave on private affairs | : | 26.1.2002 to 2.7.2014
12 years 6 months. |
| 4. Special provident fund Rs.20/- p.m. | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 5. Special provident fund Rs.50/- p.m. | : | 26.1.2002 to 2.7.2014
12 years 6 months |
| 6. Four days salary for January 2002 | : | 26.1.2002 to 2.7.2014
12 years 6 months |

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.A.Zahir Hussain,
Government Advocate.

ORDER

The petitioner has come up with the present writ petition challenging the order of the first respondent in G.O.No.236 dated 28.5.2015 in so far as the non-payment of interest on belated payments towards earned leave surrender, leave on private affairs and pay commission arrears, SPF 20, SPR 50 and salary and further to

direct the respondents to pay interest for the belated payment of the terminal benefits viz.,

- | | | |
|--|---|---|
| 1. Pay commission arrears | : | 1.4.2008 to 23.7.2014
6 years 4 months |
| 2. Earned leave surrender | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 3. Surrender on leave on private affairs | : | 26.1.2002 to 2.7.2014
12 years 6 months. |
| 4. Special provident fund Rs.20/- p.m. | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 5. Special provident fund Rs.50/- p.m. | : | 26.1.2002 to 2.7.2014
12 years 6 months |
| 6. Four days salary for January 2002 | : | 26.1.2002 to 2.7.2014
12 years 6 months. |

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is the mother of one S.Kanchana, who was a Post Graduate in Commerce. Her daughter S.Kanchana was appointed as Junior Assistant in the Revenue Department of the Government of Tamil Nadu in Vellore District in the year 1993. Later, she was transferred to the office of the Commissioner of Land Administration, Chennai. While so, she got married with one Prakash on 26.6.1996 at

Chromepet, Chennai, as per Hindu custom. Due to some misunderstanding between them, the said Prakash filed HMOP No.377 of 1997 in February, 1997 for declaring the marriage between him and the said Kanchana as null and void on the ground of alleged fraud.

(b) In the meantime, on 24.7.1997, petitioner's daughter S.Kanchana nominated the petitioner herein to receive her service benefits and her signature was also attested by two witnesses, who were working in the office of the second respondent and who were her superiors. The nomination was effected to succeed the service benefits of the petitioner's daughter as per Tamil Nadu Pension Rules, 1978 and as per T.N.G.E.S.P.Fund-cum-Gratuity Fund Scheme.

(c) Subsequently, while the said HMOP was pending, the petitioner's daughter S.Kanchana died on 25.1.2002 without any issues due to psychological pressure and mental pain inflicted by her husband. After the death of the petitioner's daughter, as per the nomination made by her, the petitioner being her mother, is eligible to get terminal benefits such as GPF, Family Benefit, etc. Since the same was not given to her, the petitioner approached this Court by filing a writ petition in W.P.No.28814 of 2011 and this Court, by an order

dated 28.3.2014, allowed the said writ petition with the following directions:-

- (i) The second respondent shall sanction and pay GPF amount of Rs.86,000/- in favour of the petitioner as per the nomination made by her deceased daughter viz., S.Kanchana, with accrued interest as on the date of payment.
- (ii) The second respondent shall also pay the balance Family Benefit Fund of Rs.95,000/- with 9% interest per annum from 25.1.2002.
- (iii) Petitioner is entitled to get any other eligible terminal benefits.
- (iv) Petitioner is also entitled to get cost of this writ proceeding, which is quantified at Rs.10,000/-, payable by the second respondent.
- (v) The above amounts are directed to be paid within a period of two weeks from the date of receipt of copy of this order.

Even thereafter, since the first respondent therein failed to sanction the benefits, she filed a contempt petition before this Court in

Cont.P.No.231 of 2015. Pending the said contempt petition, the first respondent passed an order in G.O.No.236 dated 28.5.2015, sanctioning the amount of Rs.3,47,822/-. However, the first respondent refused to give interest on the belated payment. Hence, challenging the same, the petitioner has come forward with the present writ petition for the relief set out earlier.

3. Learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, in W.P.No.6902 of 2006 dated 30.7.2010, by relying upon the judgment of the Hon'ble Supreme Court reported in **(1999) 3 SCC 438 – Dr.Uma Agarwal vs. State of U.P.**, directed the second respondent therein to pay the statutory interest for the gratuity amount, provident fund, special provident fund. Insofar as the commutation of pension and surrender of earned leave are concerned, the second respondent therein was directed to pay interest for the belated payment as per the Government Orders. Hence, following the same, similar order could be passed in this writ petition also.

4. I have also heard the learned Government Advocate appearing for the respondents.

5. Keeping the submissions made on either side, I have carefully gone through the materials available on record.

6. In the decision reported in **(1999) 3 SCC 438 – Dr.Uma Agarwal vs. State of U.P.**, the Hon'ble Supreme Court has held as follows:-

“ ... grant of pension is not a bounty but a right of the government servant. The Government is obliged to follow the rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired Government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the rules / instructions apart from other relevant factors applicable to each case.”

In view of the judgment of the Hon'ble Supreme Court, it is well settled that an employee is entitled to interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules / administrative instructions or guidelines.

7. Following the decision of the Hon'ble Supreme Court cited above, the present writ petition is allowed and the impugned order of the first respondent in G.O.No.236 dated 28.5.2015 in so far as the non-payment of interest on belated payments towards earned leave surrender, leave on private affairs and pay commission arrears, SPF 20, SPR 50 and salary is set aside. The respondents are directed to pay interest at the appropriate rate for the belated payment of the terminal benefits of the petitioner viz.,

- | | | |
|--|---|---|
| 1. Pay commission arrears | : | 1.4.2008 to 23.7.2014
6 years 4 months |
| 2. Earned leave surrender | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 3. Surrender on leave on private affairs | : | 26.1.2002 to 2.7.2014
12 years 6 months. |
| 4. Special provident fund Rs.20/- p.m. | : | 26.1.2002 to 12.5.2014
12 years 4 months |
| 5. Special provident fund Rs.50/- p.m. | : | 26.1.2002 to 2.7.2014
12 years 6 months |

6. Four days salary for : 26.1.2002 to 2.7.2014
January 2002 12 years 6 months,

within a period of six weeks from the date of receipt of a copy of this order. No costs.

03.10.2016

Index:Yes/No
sbi

To

- 1.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-9.
- 2.The Additional Chief Secretary /
The Commissioner of Land
Administration,
Revenue Department,
Ezhilagam, Chepauk,
Chennai-5.

R.SUBBIAH, J

sbi

W.P.No.30028 of 2015

DATED: 3.10.2016