

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.16244 of 2014

Dr.V.Muthu

.. Petitioner

vs.

Anna University,
rep.by its Registrar (incharge),
Guindy, Chennai - 25.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in Letter Ref.No.51098/PR12/2001 dated 06.06.2014 and quash the same and consequently, direct the respondent to pay the interest for the belated payment of pension, arrears of pension, residue pension, death-cum-retirement Gratuity, Commuted value of Pension, Earned Leave and Unearned Leave on Private Affairs to the petitioner from the date of his superannuation at the rate of 18% per annum till the actual date of payment.

For petitioner : Mr.Kandhan Duraisami
for M/s.Muthumani Doraisami

For Respondent : Mr.M.Vijayakumar

ORDER

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in Letter Ref.No.51098/PR12/2001 dated 06.06.2014 and to quash the same and consequently, direct the respondent to pay the interest for the belated payment of pension, arrears of pension, residue pension, death-cum-retirement Gratuity, Commuted value of Pension, Earned Leave and Unearned Leave on Private Affairs to the petitioner from the date of his superannuation at the rate of 18% per annum till the actual date of payment.

2. The case of the petitioner is that he was appointed as General Foreman by the Director of Technical Education, dated 9.6.1978 and after the formation of Anna University, he was absorbed as an employee of Anna University in the year 1980. Based on G.O.Ms.No.2406 Education Department, dated 31.10.1981, he was appointed as Lecturer in Mechanical Engineering Department by the respondent vide his Order dated 5.7.2001 and he joined the duty on the same day as Lecturer. Subsequently, the Audit Department raised objection stating that the aforesaid G.O.Ms.No.2406 is applicable only to the Private Aided Colleges and the same cannot be made applicable to Anna University. The said Audit objection was considered by the Finance committee and thereafter, it was placed as an Agenda before the Syndicate of Anna University. In the meeting held on 27.2.2004, the Syndicate resolved as follows:-

"Resolved not to recommend the issue of G.O. Permitting Anna University to appoint non-teaching staff to teaching positions and resolved further that the individuals already appointed to teaching positions be reverted."

Challenging the above said resolution, he filed W.P.No.6222 of 2004 before this Court. Based on the interim order granted by this Court, he continued to work as Lecturer, till his date of superannuation i.e. 31.01.2011. By order dated 16.3.2012, this Court allowed the Writ Petition quashing the later part of the resolution No.84.7 dated 27.2.2014 i.e. reverting the petitioner from teaching post to non-teaching post and the appointment of the petitioner as Lecturer in the Department of Mechanical Engineering with effect from 5.7.2001 was confirmed. Pursuant to the order of this Court, he made a representation dated 3.5.2012 and reminders dated 14.8.2012 and 8.10.2012 requesting the respondent to implement the order of this Court and settle all his terminal benefits within a stipulated period. Since the respondent failed to comply with the order of this Court dated 16.3.2012, he preferred Contempt Petition. Thereafter, the respondent sanctioned all his terminal benefits. However, no interest was paid for the belated payment of his terminal benefits. Therefore, he made a representation dated 13.1.2014 requesting the respondent to pay interest for the belated payment of his terminal benefits at the rate of 18% per annum till the actual date of payment. By Letter in Ref.No.51098/PR 12/2001 dated 6.6.2014, which is impugned in the Writ Petition, the respondent has rejected the claim on the ground that there is no specific court order for the payment of interest for the belated payment of terminal benefits. Hence the Writ Petition.

3. Heard the learned counsel for the respondent on the above contention.

4. It is settled law that an employee is entitled to claim interest on the belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions. In the case of Dr. Uma Agarwal vs. State of U.P., AIR 1999 SC 1212 : (1999)3 SCC 438: (1999) 3 MLJ 29, it has been held by the Hon'ble Apex Court that

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"4. ... grant of pension is not a bounty but right of a retired employee and 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."

5. Similarly, in the case of S.K. Due v. State of Haryana reported in (2008) 3 SCC 44, the Hon'ble Apex Court has held as follows:-

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose of the appellant may claim benefit of interest on that basis. But even in the absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the

petition in limine even without issuing notice to the respondents.

6. Subsequently, the aforesaid decisions of the Hon'ble Supreme Court was followed by a Division Bench of this Court in the case of Government of Tamil Nadu rep.by the Secretary to Government vs. M.Deivasigamani reported in MLJ (2009) 3 Volume 242, Page 1.

7. Considering the facts and circumstances of the case and following the dictum laid down in the aforesaid decisions, this Court is inclined to quash the impugned Letter dated 6.6.2014 in Ref.No.51098/PR12/2001. The petitioner is entitled to interest on the belated payment of pension and other retiral benefits at the rate of 10% per annum. The respondent is directed to settle the payment of interest on belated payment of pension and all other retiral benefits within a period of six weeks from the date of receipt of a copy of this order.

8. The Writ Petition is allowed with the above direction. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

asvm

To
The Registrar (incharge),
Anna University,
Guindy, Chennai - 25.

+1 cc to M/s.Muthumani Doraisami Advocate sr 54892
+1 cc to M/s.M.Vijayakumar Advocate sr 54736

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