

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-08-2016

Coram

THE HON'BLE MR.JUSTICE B. RAJENDRAN

Writ Petition No.28391 of 2016

P.Rajan

.. Petitioner

Vs.

1.State of Tamil Nadu
rep. by its Secretary to Government
Commercial Tax and Registration Department
Fort St.George
Chennai-600 009.

2.The Accountant General
Account General Office
Teynampet
Chennai-600 018.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to pay the interest on the belated payment of DCRG amount of Rs.3,69,504/- and encashment of surrender leave of Rs.2,37,513/-, which were payable on 30.06.2008 to the petitioner until the date of payment as per G.O.Ms.No.122 Finance (Pension) Department, dated 20.02.1995, and pass such orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.S.Gunasekaran
Additional Government Pleader

ORDER

By consent, the Writ Petition is taken up and disposed of at the admission stage itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to pay the interest on the belated payment of DCRG amount of Rs.3,69,504/- and encashment of surrender leave of Rs.2,37,513/-, which were payable on 30.06.2008 to the petitioner until the date of payment as per G.O.Ms.No.122 Finance (Pension) Department, dated 20.02.1995.

3. The petitioner joined in the respondent Department on 01.07.1976 as Junior Assistant. Ten days prior to his retirement, i.e., on 20.06.2008, he was suspended from service and he was not allowed to retire from service on his attaining the age of superannuation on 30.06.2008. Thereafter his suspension was withdrawn and he was discharged from the charges and he was allowed to retire from service on 30.06.2008. The encashment of surrender of leave salary of Rs.2,37,513/- was made belatedly. The DCRG amount was paid only after 6 years and 10 months on 24.02.2015. The respondents are bound to pay interest on the belated payment as per G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995. The petitioner has made a representation to the 1st respondent, on 24.02.2015, demanding interest, but, there was no response. Hence, the Writ Petition has been filed.

4. Mr.A.R.Nixon, the learned counsel for the petitioner would submit that the petitioner retired on 30.06.2008. On the very same day of his retirement, under law, he is entitled to get the DCRG amount, but, the same was paid only on 24.02.2015, i.e., after a lapse of nearly six years and ten months. He would further submit that as per G.O.Ms.No.122 Finance (Pension) Department, dated 20.02.1995, the respondents are bound to pay interest on the belated payment, therefore, seeking interest on the belated payment, the petitioner has made a representation on 24.02.2015, but, till date, no order has been passed. He would rely on the judgment of the Hon'ble Apex Court reported in (1985) 1 Supreme Court Cases 429, State of Kerala & Others vs. M.Padmanabhan Nair; (1999) 3 Supreme Court Cases 438, Dr.Uma Agrawal vs. State of Uttar Pradesh and another; and (2014) 8 Supreme Court Cases 894, D.D.Tewari vs. Uttar Haryana Bijli Vitran Nigam Limited and Others, for the proposition that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

5. Mr.S.Gunasekaran, the learned Additional Government Pleader, who took notice for the respondents, on instructions, would contend that the matter is under consideration.

6. As rightly pointed out by the learned counsel for the petitioner by relying on the judgments of the Hon'ble Apex Court cited supra, the petitioner is entitled for interest on the belated payment of retiral benefits made. Hence, this Court, without going into the merits of the claim made by the petitioner, directs the 1st respondent to consider the representation of the petitioner, dated 24.02.2015, and pass

appropriate orders granting him the interest as applicable to him, on merits and in the light of the judgment passed by the Hon'ble Apex Court in (1985) 1 Supreme Court Cases 429, State of Kerala & Others vs. M.Padmanabhan Nair; (1999) 3 Supreme Court Cases 438, Dr.Uma Agrawal vs. State of Uttar Pradesh and another; and (2014) 8 Supreme Court Cases 894, D.D.Tewari vs. Uttar Haryana Bijli Vitran Nigam Limited and Others and as per G.O.Ms.No.122 Finance (Pension) Department, dated 20.02.1995, as expeditiously as possible.

7. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

-s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government
The State of Tamil Nadu
Commercial Tax and Registration Department
Fort St.George
Chennai-600 009.

2.The Accountant General
Account General Office
Teynampet
Chennai-600 018.

+1 cc to Mr.A.R.Nixon, Advocate sr 46517/16

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