



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P. (MD) No.9691 of 2016

G.Kalyanam

... Petitioner

Vs.

1. The Principal Secretary to Government,
Cooperation Food and Consumer Protection Department,
Secretariat,
Chennai 600 009.

2. The Registrar of Cooperative Societies,
EVR Salai,
No.177, NVN Maligai,
Kilpauk,
Chennai 600 010.

3. The Joint Registrar of Cooperative Societies,
Medical College Road,
Thanjavur.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent i.e., the Principal Secretary to Government, Cooperation, Food and Consumer Protection Department, Chennai, to pass appropriate orders on the petitioner's representation dated 30.11.2015 regarding sanction of interest for belated payment of DCRG ie., after 8 years from the date of superannuation under Rule 45(A) of the Tamil Nadu Pension Rules, 1978, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.R.Anandharaj,
Government Advocate

O R D E R

This Writ petition has been filed to issue a Writ of Mandamus directing the 1st respondent i.e., the Principal Secretary to Government, Cooperation, Food and Consumer Protection Department, Chennai, to pass appropriate orders on the



petitioner's representation, dated 30.11.2015, regarding sanction of interest for belated payment of DCRG from the date of superannuation under Rule 45(A) of the Tamil Nadu Pension Rules, 1978, within a time-frame.

2. The petitioner by name, Mr.G.Kalyanam, who was serving as a Development Officer (ICDP) in the cadre of Cooperative Sub Registrar, Peravoorani, under the control of the Deputy Registrar of Cooperative Societies, Thanjavur, was allowed to retire from service on 31.01.2007, by order dated 04.12.2007, passed by the Joint Registrar of Cooperative Societies, Thanjavur, subject to the result of the two disciplinary proceedings pending against him. However, his pension was paid on 29.05.2015 i.e., after a period of 8 years for no fault on his part. Other benefits viz., Death Cum Retirement Gratuity (DCRG) and commutation were paid on 12.02.2015 and 12.05.2015 respectively. He made a representation dated 30.11.2015, to the respondent for grant of interest over belated payment of D.C.R.G. Since the same has not been considered, the petitioner is before this Court.

3. Mr. Visvalingam, learned counsel appearing for the petitioner would submit that, as per Rule 45(A) of the Tamil Nadu Pension Rules, interest at the rate of 8% per annum shall be payable on the DCRG paid beyond a period of 2 months from the date of retirement of a Government servant. Again, referring to Rule 45-A(i)(a), he would further submit that in case of a government servant retired otherwise on superannuation where DCRG is withheld on account of disciplinary proceedings pending against him, the period beyond which interest payable is three months from the date of retirement where the government servant is exonerated of all charges and where the Death cum Retirement Gratuity (DCRG) is paid on the conclusion of the disciplinary proceedings.

4. In support of his submission, the learned counsel for the petitioner relied on a judgment of the Hon'ble Apex Court reported in 2001(9) SCC 687 (Vijay L. Mehrotra Vs. State of U.P. and others), to highlight the proposition that in case of an employee retiring after having rendered service, all retirement benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances, the payments could not be made on the date of retirement.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

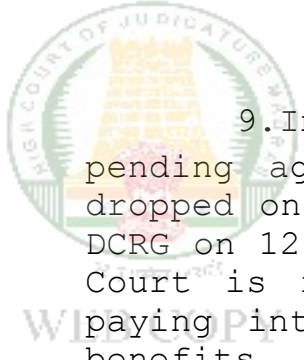
6. In the present case, when the 1st disciplinary proceedings were dropped by the Joint Registrar of Cooperative Societies, Thanjavur, on 02.04.2009 in his proceedings No.R.C.11751/2008/(AC) and the 2nd disciplinary proceedings relating to popularly known "Copra cases" were also dropped by the



Government in G.O.(D).No.442, Agriculture Department, dated 18.10.2013 based on the orders passed by this Court in a Writ petition in W.P.(MD)No.1675 of 2012 dated 02.08.2013, the plea for payment of interest on belated payment of benefits, is wholly misconceived; the reason is, admittedly, the petitioner suffered two departmental proceedings. The 1st charge memo was issued on 29.08.2006 by the Deputy Registrar of Cooperative Societies, (PDS), Thanjavur, and the same was dropped by the Joint Registrar of Cooperative Societies, Thanjavur, by proceedings dated 02.04.2009. Again the 2nd charge memo dated 28.09.2010 relating to "Copra cases" was also dropped by the Government in G.O.D.No.442, Agricultural Department, dated 08.10.2010 on the basis of the order passed by this Court in W.P.(MD)No.1675 of 2012 dated 02.08.2013. Therefore, the petitioner is not entitled to get the benefit of interest on the belated payment of pension. A reading of the order, dated 02.08.2013 in W.P.(MD)No.1675 of 2012, clearly shows that there is no explanation for the inordinate delay in issuing the charge memo on the part of the 2nd respondent. Therefore, the petitioner should, in fact, be thankful for issuing such charge memo belatedly.

7.The argument made referring to sub Rule (i)(a) of Rule 45A of the Tamil Nadu Pension Rules to the effect that where the government servant is exonerated of all charges, the period beyond which interest payable is three months from the date of retirement, also cannot be accepted, since after the dropping of the 1st charge memo dated 29.08.2006 by the Joint Registrar of Cooperative Societies, Thanjavur, the petitioner was facing another departmental proceedings in charge memo dated 28.09.2010 relating to Copra cases, which also came to be dropped by the Government, vide G.O.(D).Ms.No.442, Agriculture Department, dated 18.10.2013 on the basis of the direction issued by this Court in W.P.(MD)No.1675 of 2012 dated 02.08.2013. Therefore, when two charges were pending against the petitioner, even after the petitioner attained the age of superannuation on 31.01.2007 and only by the intervention of this Court, the 2nd charge memo came to be dropped on 18.10.2013, the petitioner cannot find fault with the respondents when they promptly disbursed the pension, DCRG and commutation on 29.05.2015, 12.02.2015 and 12.05.2015 respectively.

8.Before parting, it may be mentioned herein that retirement benefits are disbursed not in the nature of bounty is well settled and needs no authority in support thereof. But when the government servants are not timely paid with the retirement benefits on the date of retirement or soon thereafter due to any unforeseen circumstances, he should establish that the delay in making the payment for months together is purely on the part of the respondent department, but not on him.



9. In the present case, admittedly, two charge memos were pending against the petitioner. When the 2nd charge memo was dropped on 18.10.2013, he was paid with pension on 29.05.2015 and DCRG on 12.02.2015 and commutation on 12.05.2015. Therefore, this Court is not able to find any merit to issue a direction for paying interest on the alleged belated disbursal of retirement benefits.

10. In view of the above, the Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government,
Cooperation Food and Consumer Protection Department,
Secretariat, Chennai 600 009.
2. The Registrar of Cooperative Societies,
EVR Salai, No.177, NVN Maligai, Kilpauk, Chennai 600 010.
3. The Joint Registrar of Cooperative Societies,
Medical College Road, Thanjavur.

Nbj

JM/NGM-MP/SAR-I/15.07.2016/4P-4C

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