



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.118 of 2017

G.Kalyanam,

... Appellant

Vs.

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

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

3.The Joint Registrar of
Co-operative Societies,
Medical College Road,
Thanjavur.

... Respondents

PRAYER :- Appeal has been filed under clause 15 of the letters patent, to set aside the order dated 03.06.2016 passed in W.P. (MD).No.9691 of 2016 and direct the respondents to make payment of compounding interest to the petitioner from 01.05.2007 to 12.02.2015 i.e., till date of actual payment within a specified time frame.

Prayer in WP(MD)No.9691/2016:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent i.e., the Principal Secretary to Government, Co-operation, Food and Consumer Protection Department, Chennai to pass appropriate order on the petitioner's representation dated 30.11.2015 regarding sanction of interest for belated payment of DCRG i.e., 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 Honourable Court.



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For Appellant : Mr.S.Visvalingam
For Respondents : Mr.V.R.Shanmuganathan,
Spl. Govt. Pleader.

JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.S.Visvalingam, learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents.

2.This appeal filed by the writ petitioner is directed against the order in W.P.(MD) No.9691 of 2016, dated 03.06.2016.

3.The appellant filed the writ petition to direct the first respondent to pass appropriate orders on his representation for sanction of interest in accordance with Rule 45(A) of the Tamil Nadu Pension Rules. The appellant restricted his claim for interest only with regard to Death cum Retirement Gratuity (DCRG). The learned single Judge dismissed the writ petition on the ground that there were two charge memos pending against the appellant, he was not permitted to retire and the charge memo was dropped by the Government only on 18.10.2013 and therefore, the appellant is not entitled for interest on expiry of three months from the date of his retirement. As against which, the present writ appeal has been preferred.

4.The undisputed fact is that the appellant attained the age of superannuation on 31.01.2007, but was not permitted to retire and retained in service as charge memo was pending against the appellant alleging lack of supervision and after he was retained in service, another charge memo was issued on 28.09.2010 pertaining to what is popularly known as Copra Cases. So far as the first charge memo is concerned, which was initiated prior to his date of retirement, the same was dropped by the order passed by the Joint Registrar of Co-operative Societies, Thanjavur, dated 02.04.2009. However, the petitioner was not permitted to retire since the other charge memo was still pending.

5.Pursuant to orders passed by this Court in several cases, where similar charges were framed were dropped by the Government by G.O.(D).No.442, Agriculture Department, dated 18.10.2013. <https://hccservices.courtshg.in/hccservlet> the appellant ought to have been permitted to retire at least by end of October 2013, but the Government had permitted him to retire only on 10.02.2015.



6.The question would be as to whether the appellant would be entitled for interest on the Death cum Retirement Gratuity (DCRG). Rule 45(A) as it stood amended by after insertion of sub Rule (i) (a), with effect from 10.05.1991 vide G.O.Ms.No.510, Finance (Pension), dated 27.06.1995, provides for payment for interest on Death cum Retirement Gratuity, which is withheld on account of the disciplinary proceedings pending against the retired Government servant. The said Rule reads as follows :

45A-(1-A). *The period beyond which such interest is payable shall be as follows.-*

(i) in the case of a Government servant retired otherwise on superannuation and where the Death-cum-Retirement Gratuity is withheld on account on the disciplinary proceeding pending against him.-

(a) three months from the date of retirement where the Government servant is exonerated of all charges and where the Death-cum-Retirement Gratuity is paid on the conclusion of disciplinary proceedings:

(b)

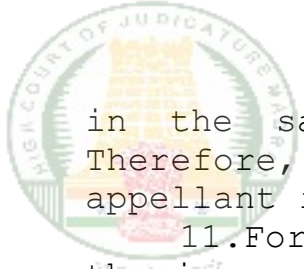
(c)

7.In terms of Clause (a) of the Section 45-A (1-A) (i), the Government servant is entitled for interest after three months from the date of retirement, where he is exonerated from all the charges and Death-cum-Retirement Gratuity is paid on the conclusion of the disciplinary proceedings.

8.The learned Special Government Pleader would submit that the disciplinary proceedings stood dropped only on 18.10.2013 and at best three months thereafter, the appellant would be entitled for interest till the DCRG was settled on 10.02.2015.

9.We are unable to accept the said contention as the Rule does not provide for such a contingency, but only states that the Government servant is entitled for interest after three months from the date of retirement, where he is exonerated of all the charges and the Death-cum-Retirement Gratuity is paid on the conclusion of the disciplinary proceedings. Admittedly, the appellant has been permitted to retire with effect from 31.01.2007 as he has been fully exonerated / dropped all charges framed against him. Thereafter, from April 2007, the appellant is entitled for interest in terms of above provision.

10.It is brought to our notice that the Government, vide G.O.D).No.136, Cooperation, Good and Consumer Protection (CH1) Department, dated 07.05.2015 considered some what a similar case of one Tr.K.S.Rajamanickam, Deputy Registrar of Cooperative Societies, against whom, the charge proceedings were initiated and he was permitted to retire and ultimately, he was exonerated of the charges and allowed to retire and the Government had directed payment of interest. The stand taken by the Government



in the said G.O., is squarely applicable to the appellant. Therefore, we are inclined to grant the relief sought for by the appellant in the writ petition.

11. For all the above reasons, this writ appeal is allowed and the impugned order is set aside. Consequently, the writ petition is allowed and the respondents are directed to pay interest at the admissible rate on the expiry of three months from the date of appellant's retirement ie., 31.01.2007. The above direction be complied with by the respondents within a period of three months from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub-Assistant Registrar

To

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

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

3. The Joint Registrar of
Co-operative Societies,
Medical College Road,
Thanjavur.

+One cc to Mr.S.Visvalingam, Advocate, SR.No.61167

+One cc to The Special Government Pleader, SR.No.61612

Skm/Arul

RL/6C/4P/KP/SAR1/30/6/2017

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