



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. [MD] .No.806 of 2017

and

C.M.P. (MD) No.5726 of 2017

1. The Secretary,
St.Johns College,
Palayamkottai,
Tirunelveli.

2. The Principal,
St.Johns College,
Palayamkottai,
Tirunelveli District.

: Appellants/
Respondents 4 & 5

Vs.

1. Dr.Mohanraj Ebenezer

2. The Director of Collegiate Education,
College Road, Chennai.

3. The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.

4. The Accountant General (A&E)
Office of the Accountant General,
Teynampet,
Chennai.

: Respondents 2 to 4/
Respondents 1 to 3

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 05.01.2017 passed in W.P.(MD) No.23974 of 2016 on the file of this Court.

Prayer in WP(MD). 23974/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to pay the interest at 12 per cent per annum for the belated payment of Gratuity, Commutation of pension, earned leave, unearned leave and salary arrears from the date of Petitioners retirement i.e.31.10.2014 till the date of payment.

For Appellants

: Mr.T.A.Ebenezer

For R1

: Mr.Veerakathiravan
Senior Counsel for
Mr.C.Jeyanathan



For R2 & R3

: Mr.V.R.Shanmuganathan
Special Government Pleader

For R4

: Mr.P.Gunasekaran

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JUDGMENT

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

Heard Mr.T.A.Ebenezer, learned counsel appearing for the appellants, Mr.Veerakathiravan, learned Senior Counsel appearing for the first respondent, Mr.V.R.Shanmuganathan, the learned Special Government Pleader appearing for the second and third respondents and Mr.P.Gunasekaran, learned counsel appearing for the fourth respondent.

2.By consent on either side, this writ appeal itself is taken up for final disposal.

3.The appellants/Respondents 4 & 5 are the Secretary and the Principal of St.Johns College. The Writ Petition was filed by the first respondent herein for payment of interest at 12% per annum for the belated payment of gratuity, commutation of pension, earned leave, unearned leave and salary arrears from the date of retirement i.e. 31.10.2014 till the date of payment.

4.There is no dispute with regard to the date of retirement of the first respondent nor for his entitlement for the gratuity and other retirement benefits. The appellant College would contend that on account of the fact that there was no Secretary to the institution and it was under the direct payment, the retirement benefits could not be paid to the first respondent within the time and if there is any delay, it is the department, which has to effect the payment of interest.

5.As pointed out by the learned Special Government Pleader appearing for the respondents 2 and 3 the proposal for payment of the retirement benefits to the first respondent was received by the department only on 07.10.2015, though the first respondent retired on 31.10.2014. After receipt of the said proposal, the third respondent herein has addressed the management on 14.12.2016, clearly explaining the stand taken by the department. Therefore, the appellant College is bound to pay interest for the delayed payment of retirement benefits, which is a statutory right of the first respondent.

6.After hearing the learned counsel for the parties, we are of the view that the appropriate rate of interest should be 8% per annum. Accordingly, only to that extent, we are inclined to



interfere with the order passed by the writ Court, while confirming the other findings and reasoning of the Writ Court.

7. Accordingly, the Writ Appeal is partly allowed and the appellants are directed to pay the first respondent/writ petitioner interest at the rate of 8% instead of 10% from the date of retirement i.e., 31.10.2014 till the date on payment.

8. It is submitted by the learned counsel for the appellants that the delay cannot be attributed to the appellant college and since the college was under direct payment, it is the department which has to pay the interest.

9. We are not inclined to express anything in the matter in the light of the stand taken by the third respondent herein vide letter dated 04.12.2015. It is stated that the appellants have given a fresh representation to the third respondent herein in this regard. As we have directed the appellants to pay the interest to the first respondent, we give liberty to the appellants college to pursue their representation before the third respondent, which shall be considered in accordance with law.

Consequently, connected Miscellaneous Petitions is closed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Director of Collegiate Education,
College Road, Chennai.
2. The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.
3. The Accountant General (A&E)
Office of the Accountant General,
Teynampet, Chennai.

+1cc to Mr.T.A.Ebenezer, Advocate Sr.No.62577

+1cc to M/s.Veera Associates, Sr.No.63170

IS

VB/MR/KKR/SAR4/10.07.2017/3p/6c