



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN

W.P (MD) No. 20062 of 2013

WEB COPY

B.Thirumoorthy

.. Petitioner

Vs.

1.The Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2.The Director General,
Highways Department,
Chepauk,
Chennai-600 005.

.. Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India, for issuance of the Writ of Certiorarified Mandamus, to call for the records pertaining to the 2nd respondent in Memorandum No.9239/Kamukkam-3(1)/2002-73 dated 08.11.2013, quash the same and consequently direct the respondents to pay interest for the belated payment of Rs.92,026/- (Rupees ninety two thousand and twenty six only) paid towards salary for the suspension period from 08.02.1999 to 22.10.1999 as fixed by this Court.

For Petitioner : Mr.P.Mahendran

For Respondents : S.Kumar

Additional Government Pleader

ORDER

The petitioner, who was working as Junior Engineer at the Kalayarpatti Panjayat, was transferred to Aruppukottai on 16.11.1998. On receipt of the transfer orders and after being relieved from Kalayarpatti, the petitioner went on medical leave and while he was on medical leave, the District Collector, Virudhunagar, by order, dated 08.02.1999 placed the petitioner under suspension pending enquiry in certain charges. The petitioner challenged the order of suspension before the Tamil Nadu Administrative Tribunal in O.A.No.4303 of 1999. The Tribunal allowed the said O.A., on 11.08.1999, thereafter the petitioner joined duty at Madurai on 23.10.1999. No Departmental action was taken against the petitioner for the delinquencies alleged in the order of suspension, dated 08.02.1999.

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2. Thereafter the petitioner was awarded selection Grade and

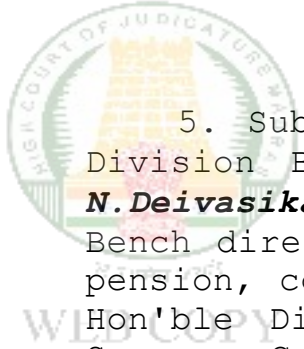


he retired on attaining superannuation in the year 2004. However, the petitioner has not been paid the salary for the period of suspension, i.e., from 08.02.1999 to 22.10.1999. The petitioner had made several representations to the various authorities and after prolonged correspondence and delay, the Superintending Engineer, Madurai directed payment of salary for the suspension period, i.e., from 08.02.1999 to 22.10.1999 to the petitioner on 30.09.2010. The petitioner has claimed interest for the delayed payment of salary and sent his representations dated 04.03.2011 and 03.10.2011. Since there was no response, the petitioner has filed W.P.(MD).No.13641 of 2011 seeking a writ of mandamus, directing the authorities to consider his request for payment of interest for the delayed payment of salary. This Court by order, dated 04.07.2013, directed the authorities to consider the request of the petitioner for interest in accordance with law, within a period of eight weeks from the date of receipt of a copy of that order.

3. Pursuant to the said direction, the request of the petitioner was rejected on 08.11.2013 by the second respondent. Challenging the rejection, the petitioner is before this Court. The only reason that has been given for the rejection of the petitioner's claim is that there is no specific Rule in the Service Rules, which enables payment of interest for the delayed disbursement of salary.

4. Mr.P.Mahendran, learned counsel for the petitioner would invite my attention to the decision of the Hon'ble Supreme Court in **S.K.Dua vs. State of Haryana and another**, reported in (2008) 3 SCC 44, the Hon'ble Supreme Court, at paragraph No.14 of the judgement, has observed 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, the appellant may claim benefit of interest on that basis. But even in 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



5. Subsequently, the similar situation was considered by the Division Bench of this Court in **Government of Tamil Nadu vs. N.Deivasikamani** reported in (2009) 3 MLJ 1 wherein the Division Bench directed the payment of interest for the belated payment of pension, commutation of pension and other retirement benefits. The Hon'ble Division Bench had followed the dictum of the Hon'ble Supreme Court in S.K.Dua's case referred supra. It is not in dispute that the petitioner, on revocation of the suspension joined duty on 23.10.1999 and salary to the period of suspension between 08.02.1999 and 22.10.1999 was paid eventually on 13.10.2010, that is, after delay of nearly 11 years. Though it is stated that the delay is due to the administrative reasons, there is no justification for such long delay as already stated.

6. The Hon'ble Supreme Court has categorically ruled that even in the absence of any Statutory Rules or Administrative instructions with regard to the interest, the concerned Government servant would be entitled to interest under Article 14, 19 and 21 of the Constitution of India. Hence, I have no hesitation in allowing the writ petition, quashing the impugned order of the second respondent rejecting the request of the petitioner for payment of interest for a sum of Rs.92,026/- being the salary for the period from 08.02.1999 to 22.10.1999. The Division Bench has granted 10% interest by considering the bank interest that is charged. I deem it fit to direct the second respondent to pay interest on the said sum of Rs.92,026/- for a period from 23.10.1999 to 13.10.2010 at the rate of 10% per annum. Such interest shall be paid within a period of eight weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2.The Director General,
Highways Department,
Chepauk,
Chennai-600 005.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. NO.17090

+1cc to M/s.P.MAHENDRAN Advocate in SR. No.16930

PJL

JS/JC/SAR, 3/12-04, 2017/3P-5C

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