IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.09.2018

PRONOUNCED ON : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11537 of 2008
and
M.P.No.1 of 2009

R.Kumarasamy .. Petitioner

vs

1.Director of Rural Development,
Director of Rural Development Department,
Panagal Buildings, Saidpet,
Chennai 600 015.

2.The District Collector,
Kancheepuram District,
at Kancheepuram.

3.The Block Development Officer,
Panchayat Union Office,
Kattankulathur,
Kancheepuram District. .. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent in Fwpg;ghiz vz;.59139/2007/C1, dated 11.01.2018 and to quash the same and thereby directing the respondent to sanction interest on Rs.39,232/- for the delayed period of DCRG amount on from 01.09.1994 till 07.03.2005 at the rate of 12% compoundable as per the G.O. Ms.No.517, dated 12.06.1987 and G.O.Ms.No.122 (Finance) Pension, dated 20.02.1995 with 18% interest.
(Prayer is amended as per order dated 27.03.2014 by CSKJ in M.P.No.1 of 2014 in W.P.No.11537 of 2008)

For petitioner : Mr.A.R.Nixon,

For respondents : Mr.N.Inbanathan
Additional Government Pleader for R1 & R2
Mr.V.R.Thangavel for R3

O R D E R

The above writ petition has been filed for issuance of a Writ of Mandamus to call for the records relating to the order passed by the first respondent in Fwpg;ghiz vz;.59139/2007/C1, dated 11.01.2018 and to quash the same thereby directing the respondent to sanction interest on Rs.39,232/- for the delayed period of DCRG amount on from 01.09.1994 till 07.03.2005 at the rate of 12% compoundable as per the G.O. Ms.No.517, dated 12.06.1987 and G.O.Ms.No.122 (Finance) Pension, dated 20.02.1995 with 18% interest.

2.By a letter dated 16.08.1994, the petitioner requested the third respondent to relive him from service and that the amount from DCRG may be deducted subject to the out come of the proceedings filed by him before the Tamilnadu State Administrative Tribunal.

3.Therefore, by an order dated 29.08.1994, the petitioner was permitted to retire on 31.08.1994. The respondents were permitted to inform the Accountant General, Madras for making appropriate deductions from DCRG of the petitioner.

4.Under these circumstances, the third respondent also sent an appropriate letter dated 30.08.1994 to the Accountant General Madras with a request to deduct the following ams:

1.	Block development Officer, Thirukalikundram, R.C.No.1593/94/A1 dated 03.05.1994	Rs.14,290.00
2.	Block development Officer, Thirupullani, R.C.No.2370/94/A1 dated 31.05.1994	Rs.23,000.00
	Total	Rs.37,290.00

5.The third respondent was directed to furnish the details of the amounts recoverable. Meanwhile, the two proceedings before the Tamilnadu Administrative Tribunal, Madras, in T.A.Nos.1237 of 1989 on 07.04.1994 and O.A.No.2626 of 1992 on 11.09.1995 initiated by the petitioner were dismissed for non-prosecution on 20.11.1995.

6.On 01.02.2007, the officer of the Accountant General issued a Gratuity Payment Order and directed the third respondent to release an amount of Rs.39,232 to the petitioner. It was in response to letter dated 09.11.2006 of the 3rd respondent. The said amount was paid to the petitioner by a cheque dated 09.03.2007.

7.After receiving aforesaid amount, by a letter dated 14.03.2007, the petitioner requested the third respondent to pay the interest on account of the delayed payments and demanded a sum of Rs.53,721/- as interest at various rates as per the Orders of the Central Government, which has been followed by the State Government.

8.By a letter dated 19.04.2007 the third respondent forwarded the request with his explanation the first respondent. Another representation was sent to the second respondent by the third respondent vide a letter dated 12.02.2008. Thereafter, the first respondent sent a letter to the petitioner with the details of the third respondent vide letter dated 21.02.2008.

9.By the letter 19.04.2007, the third respondent held that the petitioner was not entitled to interest on DCRG for a sum of Rs.39,232/- sanctioned to the petitioner vide a letter of the Accountant General dated 01.09.1994. The amount of interest has been denied on the ground that the claim is delayed and that the amount was deducted on account of petitioner's own letter asking the respondents to deduct the amounts towards pending cases.

10.A common counter was filed on behalf of the respondents, wherein it has been stated the amount of Rs.39,232/- was released by the Accountant General to the petitioner based on the proposals sent by the then Block Development officer on 29.07.1994 which was prior to his retirement. The petitioner retired on 31.08.1994 on attaining the age of superannuation without prejudice pending finalization of the case, which was pending before the Tamilnadu Administrative Tribunal, Madras.

11.It is further submitted that both the cases filed before the Tamilnadu Administrative Tribunal, Madras came to be dismissed for non-prosecution and therefore, the request for interest cannot be considered. It is further submitted that the amount was paid after 12 years and the demand for interest cannot be entertained as the petitioner enclosed the details of payment of 14,000/- and other amounts after lapse of 12 years.

12.It has been further stated the amount of Rs.39,232/- would have been released earlier by the then Block Development Officer if the petitioner had disclosed the details of the receipt given by the Panchayat Union and therefore, the respondents cannot be made to pay interest.

13.Yet another counter was filed separately on behalf of the third respondent. It was submitted that the petitioner submitted a representation dated 19.06.2006 after a lapse of 12 years by alleging that that he was not paid the correct DCRG and based on the representation, the officer of the third respondent forwarded a proposal to the Accountant General to re-validitie the account and to sanction the arrears of DCRG to the petitioner. Accordingly, the benefit was sanctioned and payment was made. However, the respondents cannot be burdened with interest for sanction of full payment as the petitioner approached then Block Development Officer belatedly with the enclosures.

14.Heard, Mr.A.R.Nixon, learned counsel for the petitioner, Mr.N.Inbanathan, learned Additional Government Pleader for the first and second respondents and Mr.V.R.Thangavel for the third respondent.

15.The learned counsel for the petitioner relied on the following decisions:

(i) Government of Tamil Nadu Vs. M.Deivasigamani (2009) 3 MLJ 1

(ii) Y.K.Singla Vs. Punjab National Bank and others (2013) 3 SCC 472

16.It is noticed that the petitioner was allowed to retire from service on 31.08.1994. At that time, there were certain claims which were pending against the petitioner and therefore, based on the undertaking given by him, he was allowed to retire. In the undertaking, he had requested the department to adjust the amounts due. The Block Development Officer, Thiru.Kalikundran, Panchayat Union Office therefore deducted Rs.14,000/- and sent a demand draft for the said amount to Thirupullani Panchayat Union by a letter dated 06.06.1994. On 16.08.1994, the petitioner also give consent to deduct the amount payable to the said Panchayat. On 25.08.1994, the Accountant General authorized payment of retirement benefit of Rs.39,232/-. On 31.08.1994, the Accountant General directed the Block Development Officer to make payment after intimation.

17.On 19.06.2006, nearly after a lapse of 12 years the petitioner approached the third respondent along with the copies of the chellan including the payments of the amount due of Rs.14,000/-. Therefore, based on the advice of the third respondent Accountant General Office proceeded to sanction the amount of Rs.39,232/- which was withheld at the time of retirement, though two cases filed by the petitioner came to be dismissed for non-prosecution.

18.Be that as it may, it is noticed that the third respondent has withheld the amounts in view of the pending proceedings. However, the petitioner has been paid the amount belatedly.

19.After receiving the amount, the petitioner asked for payment of interest based on the representation given by him.

20.In the present case the respondents have not denied that the petitioner was otherwise entitled to the amount though paid belatedly to him towards the arrears of the DCRG. That being so, the petitioner's entitled for interest.

21.The Central Government has issued Government Orders wherein it has clarified that in case delay in payment of DCRG, appropriate interest has to be paid. This is being followed by the State Government also. The petitioner is therefore entitled to interest as per the Government Orders which are followed by the State Government.

22.In both cases cited by the learned counsel for the petitioner the courts have awarded interest on delayed payment of gratuity. The Supreme Court in Y.K Singla versus Punjab National Bank (2013) 3 SCC 472 held that benefit of interest ensuring to an employee has been contemplated under Section 7 (3-A) of the Gratuity Act cannot be denied to an employee whose gratuity is regulated by some other provisions/instruments other than the Gratuity Act. This is so, because the terms of payment of gratuity under the alternative instrument have to ensure better terms than the ones provided under the Gratuity Act.

23.The above view was followed by a division bench of this Court in Government of Tamil Nadu Versus M Deivasigamani(2009) 3 MLJ 1. The court held that in view of several judgements of the Supreme Court it is now well settled that an employee is entitled to interest on belated payments of pension and other retirement benefits, even in the absence of statutory rules/regulations/instructions and guidelines and he can make a claim for interest under Part III of the Constitution relying on article 14, 19 and 21 of the Constitution of India. I am therefore inclined to allow the above writ petition.

24.The above writ petition is therefore allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.Director of Rural Development,
Director of Rural Development Department,
Panagal Buildings, Saidpet,
Chennai 600 015.

2.The District Collector,
Kancheepuram District,
at Kancheepuram.

3.The Block Development Officer,
Panchayat Union Office,
Kattankulathur,
Kancheepuram District.

+1cc to M/s.A.R.Nixon, Advocate SR.No.79756

W.P.No.11537 of 2008

SPD(CO)

GMY(27/12/2018)