

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.20228 of 2009

and

W.M.P.No.1 of 2009

G.Dhanagopal

.. Petitioner

Vs

1. The State of Tamil Nadu,  
Finance Department,  
Fort.St.George,  
Chennai-9.
2. The Director of Elementary Education,  
Chennai 600 006,
3. The Accountant General,  
Accountant General Office,  
Teynampet,  
Chennai 600 018.

... Respondents

Prayer:-

Writ Petition has been filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus , to call for records relating to the order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.035191/I4/08 dated 11.05.2009 and quash the same thereby directing the respondents to pay the interest on the belated payment from 28.04.2006 till the date of payment 12% compoundably.

For Petitioner : Mr.A.R.Nixon

For Respondents : M/s.Thangavadhana Balakrishnan  
Additional Govt Pleader for R1

: Mr.K.Karthikeyan

Govt. Advocate(Edn) for R2

: MrS.T.S.Selvarani for R3

## ORDER

The petitioner has filed this Writ petition, praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.035191/I4/08 dated 11.05.2009 and quash the same thereby directing the respondents to pay the interest on the belated payment from 28.04.2006 till the date of payment 12% compoundably.

2. The petitioner was working as Assistant Elementary Educational Officer at Sattankulam and retired from service on 28.02.2006. At the time of retirement, the petitioner has been paid with pension and computation in PPO No. C 178724/Eng, but the DCRG amount of Rs.2,90,796/- was not paid in time to the petitioner. Inspite of repeated reminders, the authorities did not listen to the request and only on 07.11.2007, the 1<sup>st</sup> respondent released money through the District Treasury, Accounts Department, Thoothukudi by two cheques to the tune of Rs.2,66,333/- and Rs.23,463/- Hence, there was a delay of 1 year, 8 months and 6 days, since the authorities ought to have disbursed the DCRG amount within two months from the date of retirement of pensioner, if any delay caused, the authorities have to pay interest for the delayed period.

3. It is submitted that as per G.O.Ms.No.122 (Finance) dated 20.02.1995 that 12% interest compounded annually should be computed as interest. Accordingly the 3<sup>rd</sup> respondent has to pay Rs.76,337/- towards the compound interest for the delayed payment. The petitioner was highly depend upon the DCRG amount and when it was not sanctioned in time, it caused untold sufferings to him and hence he is entitled for interest as per the law.

4. The petitioner filed a Writ petition earlier in W.P.No.1765 of 2008 seeking direction to the 2<sup>nd</sup> respondent to pay the interest on the DCRG amount sanctioned belatedly and this Court directed the 1<sup>st</sup> and 2<sup>nd</sup> respondents to pass order within a period of 8 weeks from the date of receipt of the copy of that order. After receiving the said order, the Secretary to Government demanded queries from the Director of Elementary Education and after that communication, the respondents have sent a letter stating that the Department is not responsible for the delay, but no order has been passed by the Court. Therefore, the petitioner was forced to file a Contempt Application against the State in C.P.No.845 of 2009 for punishing the respondents, since there was no reply from the authorities. The Contempt Application was closed since the petitioner has challenged the communication sent by the Director of Elementary Education without taking any action against the Secretary to Government.

Hence the petitioner has filed another Writ petition challenging the order of the Director of Elementary Education in Na.Ka.No.035191/I4/08 dated 11.05.2009.

5. The counter has been filed by the 3<sup>rd</sup> respondent / Accountant General stating that, regarding the payment on DCRG, Rule 45-A of Tamil Nadu Pension Rules 1978 provides for payment of interest on delayed disbursement of DCRG. Accordingly, the Government of Tamil Nadu has already clarified in Letter No.103354/Pension/87-2 Finance (Pension) Department dated 07.09.1987 that no specific authorization is necessary from the Accountant General. The Government has further clarified that on the strength of the sanction order by the Department of Secretariat, by the Drawing Officer (District Elementary Education Officer) and a bill presented to the concerned Treasury/Pay and Accounts Officer for drawal and payment to the pensioner. Therefore, there was no delay on the part of the 3<sup>rd</sup> respondent in releasing the pensionary benefits to the petitioner. The said delay occurred only by the District Educational Officer and disbursed owing to non-conduct of audit of accounts for which the petitioner held charge of the office of the Assistant Elementary Education Officer.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused all the materials on record.

7. As per G.O.MS.No.122 Finance (Pension) Department dated 20.02.1995, the rate of interest to be paid on the delayed payment of Death-cum-Retirement Gratuity (DCRG) in respect of State Government employees based on the orders issued by the Government of India for their employees as follows:-

- i) beyond 3 months and upto one year-7% per annum
- ii) beyond one year-10% per annum

The Government of India have carefully examined the question of revision of rate of interest for the delayed payment of Death-cum-Retirement Gratuity and have decided to adopt the Government of India orders in respect of State Government employees. Accordingly, if the DCRG has been delayed, the rate of interest shall be paid at the rate of 12% per annum (compounded annually).

8. The learned counsel for the petitioner relied upon a Judgment in DR.UMA AGRAWAL Vs. STATE OF UTTAR PRADESH AND ANOTHER reported in (1999) 3 SCC 438 wherein it has been held that "the retired Government servants should not be harassed and the grant of pension is not a bounty but it is the right of the Government servant and the Government is obliged to follow

rules. Delay in settlement of retirement benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too, there is a prescribed procedure, this indeed is unfortunate. In cases where a retired government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the rules /instructions, apart from other relevant factors." Accordingly, in this case there is delay of one year 8 months and 6 days. Hence, the petitioner is entitled for getting 12% interest per annum(compounded annually).

9. Accordingly, the impugned order is quashed and the respondents are directed to disburse the interest portion of DCRG for the delayed payment of DCRG from 28.04.2006 at 12% per annum which should be calculated by the Accountant General within a period of eight weeks from the date of receipt of copy of this order.

10. Accordingly, this Writ Petition is allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vji/nsd

To

1. The State of Tamil Nadu,  
Finance Department, Fort.St.George,  
Chennai-9.
2. The Director of Elementary Education,  
Chennai 600 006,
3. The Accountant General,  
Accountant General Office,  
Teynampet, Chennai 600 018.

+1cc to Mr.A.R.Nixon, Advocate, S.R.No.76236  
+1cc to the Government Pleader, S.R.No.76748

W.P.No.20228 of 2009  
and  
W.M.P.No.1 of 2009

NRL(CO)  
CS/15/03/2019