

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.16542 of 2010

T.Chandrasekaran

... Petitioner

Vs.

The Chief Engineer (Agricultural Engineering)
Anna Salai, Chennai - 600 035.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to pay interest for the belated payment of DCRG amount paid to the petitioner in August 2009 as per the order of the Assistant Executive Engineer (AE), CADP, Unit - I, Trichy in No.A/772/08 dated 13.03.2009.

For Petitioner : Mr.P.Rajendran

For Respondent : Mr.J.Ramesh, AGP

ORDER

The petitioner has come up with the present writ petition for a mandamus directing the respondent to pay interest for the belated payment of DCRG amount paid to him in August 2009 as per the order of the Assistant Executive Engineer (AE), CADP, Unit - I, Trichy in No.A/772/08 dated 13.03.2009.

2. The facts of the case in a nutshell are that the petitioner had retired from service as Junior Engineer (Agricultural Engineering) on 31.01.2005. While he was in service, he filed O.A.No.1069/1993 before the Tamil Nadu Administrative Tribunal, Chennai, against the order of recovery passed by the Assistant Executive Engineer (AE), CADP, Unit-I, Trichy by way of punishment, for the charges proved against him. Thereafter, the said Original Application was transferred to the file of this Court and re-numbered as W.P.No.13714/2006, which, by order dated 17.10.2006, was allowed by setting aside the order of recovery of Rs.76,898.25 from the DCRG payable to the petitioner. Pursuant to the said order, the

Assistant Executive Engineer (AE), CADP, Unit-I, Trichy, passed an order in No.A/772/08 dated 13.03.2009 for refund of only Rs.68,910/-. According to the petitioner, as the amount to be refunded to him is to the tune of Rs.76,898.25, a sum of Rs.7,988/- is still due to him. It is the further case of the petitioner that though the order for refund was passed on 17.10.2006, the said sum of Rs.68,910/- was paid to him only in August 2009 and hence, he is entitled to get interest for the belated payment. Therefore, the petitioner sent a legal notice to the respondent on 17.11.2009 calling upon the respondent to pay the balance DCRG sum of Rs.7,988/- with interest. Though the respondent received the said notice, they have not responded to the same. Hence, the petitioner has no other option except to approach this Court with the present writ petition.

3.The learned counsel for the petitioner submitted that since the recovery was held to be illegal by the order of this Court dated 17.10.2006 passed in WP.No.13714/2006, the respondent ought to have refunded the entire amount recovered from the DCRG payable to the petitioner, whereas, the respondent has refunded only a part of the same and they have to refund the balance amount. The learned counsel further submitted that as the amount to be refunded to the petitioner is DCRG, which is not a bounty, but a legal right, the petitioner is entitled to receive interest for the belated payment of the same. The learned counsel has also filed a calculation memo dated 18.06.2018 stating the details about the amount due to the petitioner as well as the interest at 9%p.a. for the belated payment as on 18.06.2018.

4.Heard the learned Additional Government Pleader appearing for the respondent, who has fairly conceded the submissions so made by the learned counsel for the petitioner.

5.Heard the submissions made by the learned counsel on either side and perused the materials placed before this Court.

6.Admittedly, this Court, by order dated 17.10.2006, allowed the writ petition, by setting aside the order of recovery made against the petitioner. Pursuant to the same, the respondent has refunded only a sum of Rs.68,910/-, out of Rs.76,898.25, that too, in August 2009 i.e., after three years from the date of this Court's order. According to the petitioner, the respondent is due to pay the balance sum of Rs.7,988/- and also interest for the belated payment, as the amount to be refunded to him is pertaining to DCRG, which is a retirement benefit for the services rendered by him to the Government. The said submission has not been seriously opposed by the learned Additional Government Pleader appearing for the respondent.

7. In these circumstances, it is pertinent to point out the observation of the Supreme Court in Dr. Uma Agrawal vs. State of U.P. [1999(3) SCC 438], wherein, it has been held that pension is not a bounty but right of a retired employee. The Government is obliged to initiate process for payment according to the time-schedule prescribed in the departmental rules. Non-observance of the time-schedule is one of the factors and the Court may take into account the delayed payment and further, instead of requesting the Government to work out interest payable to the petitioner on delayed payment, the Court itself could quantify the lump sum amount.

8. In yet another case in Bal Kishore Mody V. Arun Kumar Singh and Others [(2001) 10 SCC 174], considering the delay in making payment of the retirement benefits, the Supreme Court directed the respondents to pay interest on retiral benefits at the rate of 15% per annum.

9. In view of the aforesaid decisions and also considering the fact that the amount to be refunded to the petitioner is his retirement benefits and the delay in disbursement of the same is not due to the petitioner, this Court has no hesitation to direct the respondent to pay the balance DCRG amount to the petitioner, of course, with interest.

10. At this juncture, it is apropos to look into the calculation memo filed by the learned counsel for the petitioner, which reads as follows:

BALANCE TO BE REFUNDED	
Amount withheld from the petitioner	: Rs.76898/-
Amount refunded	: Rs.68910/-
Balance amount	: Rs. 7988/-
Delay in payment of Rs.68910/-	
Date of retirement	: January 2005
Date of payment	: August 2009
Delay in months	: 55 months
Interest payable @ 9% per annum	
Interest on Rs.68910/- per annum	: Rs.6202/-
Interest on Rs.68910/- for 55 months:	$\text{Rs.}6202/12 = \text{Rs.}516 \times 55$
	: Rs.28,380/-
Interest payable on Rs.7988/- @ 9% per annum till 18.06.2018	
Interest payable per annum	: Rs.718/-
Delay in months	: 106 months
Interest payable for 106 months	: Rs.6350/-

TOTAL AMOUNT PAYABLE TO THE PETITIONER

REFUNDABLE AMOUNT DUE	Rs.7988/-
INTEREST ON Rs.68910/-	Rs.28380/-
INTEREST ON Rs.7988/-	Rs.6350/-
TOTAL AMOUNT PAYABLE TO THE PETITIONER AS ON 18-06-2018	Rs.42718/-

As per the aforesaid calculation memo, the amount payable to the petitioner along with interest at 9% per annum for the belated payment of DCRG is Rs.42,718/-, for which, the learned Additional Government Pleader appearing for the respondent has no serious objection.

11.In the light of the above discussion, this Court disposes of this writ petition, directing the respondent to pay the sum of Rs.42,718/- to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Chief Engineer (Agricultural Engineering)
Anna Salai, Chennai - 600 035.

+1cc to Mr.P.RAJENDRAN, Advocate, S.R.No.37971
+1cc to the Government Pleader, S.R.No. 38681

W.P.No.16542 of 2010

KK(CO)
TR(01/08/2018)

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