

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED 14.08.2018****CORAM****THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN****W.P(MD)No.253 of 2014****WEB COPY**

M.Ananda Krishnan

: Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Higher Education Department,
Fort. St. George, Chennai.
2. The Director of Collegiate Education,
D.P.I. Campus, College Road,
Nungambakkam,
Chennai - 600 006.
3. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 007.
4. Arignar Anna College,
Rep. by its Secretary,
Aralvoimoli - 629 301,
Kanyakumari District.
5. The Principal Accountant General
of Tamil Nadu,
No.361, Anna Salai,
Chennai - 600 018.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay 18% for the delayed payment of terminal benefits i.e., Gratuity, Provident Fund and encashment of Earned Leave and Leave on Private Affairs from the date of retirement i.e., 28.02.2011 to the date of payment.

For Petitioner	: Mr.R.Subramanian
For Respondents 1 to 3	: Mr.K.Mu.Muthu Additional Government Pleader
For Respondent No.4	: Mr.D.Saravanan
For Respondent No.5	: Mr.P.Gunasekaran Standing Counsel

O R D E R*********

The petitioner has filed the present writ petition seeking a Writ of Mandamus, directing the respondents to pay 18% for the



delayed payment of terminal benefits i.e., Gratuity, Provident Fund and encashment of Earned Leave and Leave on Private Affairs from the date of retirement i.e., 28.02.2011 to the date of payment.

2. Heard the learned Counsel on either side.

3. The petitioner retired from services of the fourth respondent college on 28.02.2011. The pension proposals have got to be sent six months prior to the date of his retirement and from the records it is clear that the college has already sent the proposal in advance. The Joint Director returned the proposal only on 18.04.2011, pointing out certain defects and that it was resubmitted by the college in the month of May 2011. Thereafter, the Regional Joint Director sent the proposal to the Accountant General on 13.02.2012. The petitioner had also approached this Court by way of W.P.(MD)No.606 of 2012 and on 20.06.2012, this Court directed the respondents in that writ petition to disburse the terminal benefits to the petitioner within one month.

4. Accordingly, Gratuity and Special Provident Fund were paid to the petitioner only on 06.09.2012 and 24.09.2012, respectively. On 17.10.2012, the Pension and Commutation pay was made. Eventhough the petitioner has received the terminal benefits, his grievance is that he has not been paid any interest for the delayed payment.

5. From the narration of the events mentioned supra, there is delay at every stage and even after the orders of this Court, the amount has not been paid within time. As there is a delay by the Joint Director in sending the proposal to the Accountant General's office, this Court is of the view that the petitioner would be entitled to interest at the rate of 9% p.a., on the belated payment of terminal benefits, from the date the amount was due i.e., from the date of his retirement till the Gratuity, Special Provident Fund and Pension & Commutation were paid, namely, 06.09.2012, 24.09.2012 and 17.10.2012.

6. The first respondent is liable to pay the interest, as there was delay on his part. Though, this Court agree that there is no willful delay, but, there is a delay and the provision dealing with the terminal benefits does not contemplate that only if there is a deliberate or wilful delay, interest has to be paid. Whatever reason for the delay in payment, the terminal benefits shall carry interest.

7. Though, the interest is payable at 12% p.a, taking note of the fact that there is no willful default and that on account of reasons, the files moved at snails-pace, this Court fixes the rate of interest at 9%. The calculation has to be given by the petitioner to the respondent within two [2] weeks from the



date of receipt of a copy of this order, by enabling them to verify the same.

8. Accordingly, this Court directs the first respondent to pay the interest at 9% p.a., from the date of the petitioner's retirement till the actual payment made towards Gratuity, Special Provident Fund and Pension, within a period of three [3] months thereafter. If the amount is not paid within three [3] months, the interest amount payable shall be recovered from the officer who is responsible to pay the amount.

9. With the above observations and directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Principal Secretary,
Government of Tamil Nadu,
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Fort. St. George, Chennai.
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3. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 007.
4. The Principal Accountant General of Tamil Nadu,
No.361, Anna Salai,
Chennai - 600 018

+1cc to Mr.R.Subramanian, Advocate Sr.No.78634

+1cc to Mr.D.Saravanan, Advocate Sr.No.78729

+1cc to Mr.P.Gunasekaran, Advocate Sr.No.78767

MR

VB/SV/SAR2/11.09.2018/3P/8C

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14.08.2018