IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13654 of 2009

T.Jones .. Petitioner

-vs-

The Secretary to Government of Tamil Nadu
Rural Development and Panchayat Raj
(OPI) Department
Fort St.George
Chennai 600 009 .. Respondent

Prayer: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent/department

(i) to pay the interest at 12% per annum from 10.10.2006 to 17.04.2007 of Rs.15,585/- on Death cum Retirement Gratuity amount of Rs.2,59,756/- for 6 months

(ii) to pay the interest of Rs.3,895/- on the Special Provident Fund amount (148 instalments) of a sum of Rs.27,826/- for 14 months

(iii) to pay the interest from 1.9.2006 to 31.12.2006 of Rs.8,429/- on the leave salary and allowance amount on Rs.2,06,225/- for 4 months

(iv) to pay difference in commutation of pension of Rs.15,438/- for 6 months from Oct.2007 to Dec.2007 and Jan to March, 2008

(v) to pay the interest of Rs.10,287/- on the belated payment of commutation of pension of Rs.2,57,191/- for 4 months, and

(vi) to pay the maturity value of the Indra Vikas Patra.

For Petitioner :: Mr.K.R.Krishnan

For Respondent :: Mr.M.Elumalai
Government Advocate

ORDER

This writ petition has been filed by a retired Selection Grade Section Officer in Rural Development and Panchayat Raj Department seeking a direction to the respondent/department to pay interest on the belated payment of terminal benefits.

2. Learned counsel for the petitioner submitted that the petitioner, after serving as Selection Grade Section Officer in Rural Development and Panchayat Raj Department, attained the age of superannuation on 30.6.2006 and he was also permitted to surrender 240 days of earned leave standing to his credit as on 30.6.2006 and to draw the leave salary and allowances at the rates admissible on the date of surrender. The Department also authorised the Section Officer to draw and disburse the amount to the petitioner as per the office proceedings No.629 dated 5.10.2006 and further the petitioner was permitted to encash 61 days of unearned leave on private affairs to his credit as on 30.6.2006 and also to draw the leave salary and allowances at the rates admissible under the orders in force. It is the claim of the petitioner that when the Department authorised the Section Officer to draw and disburse the amount to the petitioner as per the office proceedings dated 5.10.2006, the said amounts should have been disbursed within 15 days or within the maximum period of two months by the end of August, 2006. But the respondent-Department forwarded the disbursement orders only by the proceedings dated 5.10.2006 and ultimately the disbursement was made only on 3.1.2007. The said delay in disbursing the amount is unwarranted and purposely made to cause severe hardship to the petitioner, who is a retired pensioner. Since there has been a huge delay in disbursement of the terminal benefit, viz., Death-cum-Retirement Gratuity, as per G.O.Ms.No.22, Finance (Pension) Department dated 20.2.1995, the rate of interest shall be 12% per annum. But the said order has been subsequently modified by G.O.No.173, Finance (Pension) Department dated 1.4.2004 to pay the compounded interest at the rate applicable to General Provident Fund at the time of retirement of the government servant, a direction be issued for payment of interest on all the delayed payments viz., (i) to pay interest at the rate of 12% per annum from 10.10.2006 to 17.4.2007 on the Death-cum-Retirement Gratuity amount of Rs.2,59,756/- for six months; (ii) to pay interest on the Special Provident Fund amount of Rs.27,826/- for 14 months; (iii) to pay interest from 1.9.2006 to 31.12.2006 on the leave

salary and allowance amount of Rs.2,06,225/- for 4 months; (iv) to pay difference in commutation of pension of Rs.15,438/- for 6 months from October, 2007 to December, 2007 and January to March, 2008; (v) to pay interest on the belated payment of commutation of pension of Rs.2,57,191/- for 4 months and (vi) to pay the maturity value of the Indra Vikas Patra.

3. A detailed counter affidavit has been filed by the respondent. Mr.M.Elumalai, learned Government Advocate for the respondent submitted that the petitioner was permitted to retire from service on reaching the age of superannuation on 30.6.2006. After the petitioner served in various departments, he was allotted to Rural Development and Panchayat Raj Department from Tamil Development, Culture and Religious Endowments Department with effect from 5.7.2004. Therefore, when the petitioner worked in Rural Development and Panchayat Raj Department upto 30.6.2006 and was permitted to retire from service on superannuation with effect from 30.6.2006 afternoon with the qualifying service of 27 years, out of which he worked in Rural Development and Panchayat Raj Department for less than two years. Even during the service of less than two years in Rural Development and Panchayat Raj Department, the petitioner had applied leave for a long period of 465 days for various reasons at different spells, namely, unearned leave on medical certificate for 58 days from 18.10.2004 to 14.12.2004; unearned leave on medical certificate for 58 days from 25.01.2005 to 23.03.2005; earned leave for 52 days from 10.05.2005 to 30.06.2005; unearned leave on medical certificate for 59 days from 13.01.2006 to 12.03.2006; unearned leave on private affairs for 59 days from 14.03.2006 to 11.05.2006; unearned leave on medical certificate for 58 days from 18.07.2005 to 13.09.2005; unearned leave on medical certificate for 58 days from 15.09.2005 to 11.11.2005; unearned leave on medical certificate for 52 days from 21.11.2005 to 11.01.2006 and earned leave for 11 days from 30.05.2006 to 09.06.2006. He was finally permitted to retire from service on reaching the age of superannuation on 30.06.2006 afternoon vide G.O.(D) No.393, Rural Development and Panchayat Raj Department dated 30.6.2006 and based on the pension proposal submitted by the petitioner on 7.7.2006, further action was pursued to obtain the required particulars from other departments where he had worked earlier and also from the Accountant General, Chennai for sanction of terminal benefits. The petitioner also submitted his application for settlement of terminal benefits on 7.7.2006. After his retirement, on scrutiny, the required particulars were called for from various departments where he had worked previously and after getting necessary authorisation from the Accountant General, the terminal benefits were paid to the petitioner as detailed below:-

S.No.	Details of terminal benefits	Details of sanction order	Amount	Cheque No.	Date of receipt by the individual
1 2	Surrender of Earned Leave (240 days) Surrender of Unearned Leave on private affairs	O.P.No.629, RD & PR Dept. dated 05.10.2006 O.P.No.630, RD & PR Dept. dated 05.10.2006	Rs.2,06,225	106945 dated 03.01.2007	03.01.2007
3	Special Provident Fund, 1984	G.O.(D) No.613, RD & PR Dept. dated 16.10.2007	Subscription Rs.2,960 Interest Rs.10,144 Government Contribution Rs.10,000 ------------------ Total Rs.23,104	131137 dated 04.12.2007 131136 dated 10.12.2007 131135 dated 04.12.2007	10.12.2007 10.12.2007 10.12.2007
4	Special Provident Fund, 2000	G.O.(D) No.596, RD & PR Dept. dated 09.10.2007	Subscription Rs.3,400 Interest Rs.1,232 ------------ Total Rs.4,632	130662 dated 23.11.2007 131137 dated 04.12.2007	10.12.2007 10.12.2007

S.No.	Details of terminal benefits	Details of sanction order	Amount	Cheque No.	Date of receipt by the individual
5	Final closure of GPF	A.G. Authorisation no. dated 08.11.2006	Rs.74,219	10681, dated 15.12.2006	15.12.2006
6	Death-cum-Retirement Gratuity	(A.G. Authorisation dated 03.11.2007) G.O.Ms.No. 7, RD & PR Dept. dated 25.01.2007	Rs.2,59,756	115031 dated 31.01.2007	23.04.2007
7	Revised DCRG consequent on refixation of pay consequent on stepping up of pay on par with junior w.e.f. 01.07.2006	A.G. Authorisation dated 27.02.2008	Rs.13,664 (2,73,420 - 2,59,756)	143317 dated 16.05.2008	
8	Revision of pay on par with the pay of junior w.e.f 01.07.2006	G.O.(D) No.327, RD & PR Dept. dated 15.06.2007	Rs.1,16,118	124725 dated 13.08.2007	14.08.2007

4. Heard both sides.

5. The counter affidavit filed by the respondent clearly shows that when the petitioner reached the age of superannuation, he was permitted to retire from service with effect from 30.6.2006 and the respondent-Department had disbursed the amount towards the surrender of earned leave (240 days) and surrender of unearned leave on private affairs on 3.1.2007. It further shows that the amount towards the Special Provident Fund, 1984 and Special Provident Fund, 2000 were disbursed on 10.12.2007, although the final closure of GPF amount was paid on 15.12.2006. So far as the Death-cum-

Retirement Gratuity is concerned, it is admitted in the counter affidavit that the said amount has been paid to the petitioner only on 23.4.2007 and even for the revised DCRG consequent on the refixation of pay, the department has not paid any interest. However, the counter affidavit shows that the delay is only due to administrative reason. But nowhere the respondent has explained what is the administrative reason. Even paragraph-4 of the counter affidavit also admits the case of the petitioner that the pay of the petitioner was revised and refixed at Rs.8,900/- in the scale of pay of Rs.6500-200-11000 in G.O.(D) No.327, Rural Development and Panchayat Raj Department dated 15.6.2007. Only consequent to the revision of pay, the revised pension proposal were prepared and forwarded to the Accountant General for revised authorisation of the pension proposal. Therefore, this Court finds no impediment to direct the respondents to pay interest on the belated payment of Death-cum-Retirement Gratuity, as the said amount has been paid only on 23.4.2007. As per G.O.Ms.No.122, Finance (Pension) Department dated 20.2.1995, the rate of interest shall be paid at the rate of 12% per annum compounded annually, which has been subsequently modified in G.O.Ms.No.173, Finance (Pension) Department dated 1.4.2004 to pay the compounded interest at the rate applicable to General Provident Fund corresponding to the year of retirement of the government servant. Paragraph-7 of the counter affidavit also admits the liability to pay interest for the belated payment on the Death-cum-Retirement Gratuity, as it is stated that it has been ordered in G.O.(Ms) No.173, Finance (Pension) Department dated 1.4.2004 to sanction the interest rate for the delayed payment of Death cum Retirement Gratuity as applicable to General Provident Fund and even as per the amendment to Rule 45-A of the Tamil Nadu Pension Rules, 1978 issued in G.O.Ms.No.510, Finance (Pension) Department dated 27.6.95, beyond a period of three months, if the Death-cum-Retirement Gratuity is not paid, the person who has not been paid with the Death-cum-Retirement Gratuity is entitled to get interest for the belated payment.

6. For the aforesaid reasons, so far as the prayer nos.(i) to (v) are concerned, the respondent is directed to pay the compounded interest at the rate applicable for General Provident Fund during the year of retirement of the petitioner, as the respondent has settled the Death-cum-Retirement Gratuity and Special Provident Fund only on 23.4.2007 and 10.12.2007 respectively. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. However, so far as the prayer no.(vi) is concerned, as stated in paragraph-5 of the counter affidavit, since the Indira Vikas Patra was in the possession of the petitioner, he should have surrendered the same to the post office for encashment immediately on its maturity and the fault cannot be attributed

on the part of the respondent-Department. With this observation and direction, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Rural Development and Panchayat Raj
(OPI) Department
Fort St.George
Chennai 600 009

W.P.No.13654 of 2009

MR(CO)
GMY(03/04/2019)