

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.07.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.18712 of 2014**

WEB COPY

S.Muniyandi

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Secretariat,
Chennai.

2.The Director of School Education,
DPI Compound,
Chennai.

3.The Chief Educational Officer,
Dindigul District,
Dindigul.

4.Thiru.Murugan
Additional Chief Educational Officer,
Sarva Sikhsa Abiyan
Dindigul District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay interest at the rate of 22% per annum on the delayed payment of terminal and retirement benefits of the petitioner within the time frame by this Court.

For Petitioner : Mr.S.Balamurugan

For R1 to R3 : Mrs.S.Srimathi

Special Government Pleader

For R3 : No appearance

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to pay interest at the rate of 22% per annum on the delayed payment of terminal and retirement benefits.

2.The writ petitioner was appointed as Teaching Staff on 23.03.1979 and further promoted as Supervisor through the scheme called Education for all (SARVA SIKSHA ABHIYAN) and posted at Block Resource Centre at Bathlakundu, Dindigul District. After serving about 34 years, the petitioner attained the age of superannuation and allowed to retire from service on 31.05.2013.

3.The grievances of the writ petitioner is that the terminal and pensionary benefits due to him was settled belatedly. The writ

petitioner is entitled to claim interest for the belated settlement of terminal and pensionary benefits. In this regard, the writ petitioner has submitted several representations and none of the representations were looked into by the competent authorities/respondents. Thus, the writ petitioner is constrained to move the present writ petition.

4. This Court is of the considered opinion that the Government Employees are entitled to get interest for the belated settlement of terminal and pensionary benefits. The issue regarding the grant of interest for the belated settlement of pensionary benefits are decided by the Courts, more specifically in the case of *The Government of Tamil Nadu, rep. by the Secretary to Government, Revenue Department, Fort St. George, Chennai 9 and others vs. M. Deivasigamani* reported in (2009)3 MLJ 1, wherein paragraph Nos. 6 and 7 are extracted hereunder:

"6. The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the Supreme Court in *S.K. Due v. State of Haryana* reported in 2008 (3) SCC 44. In the reported case, the appellant therein was served with three charge sheets/show cause notices in June 1998, few days before his retirement. However, he retired on 30.06.1998 on reaching the age of superannuation. He was paid provisional pension, but other retiral benefits were not given to him, which included commuted value of pension, leave encashment, gratuity, etc. They were withheld till the finalisation of disciplinary proceedings. While answering the issue as to whether the appellant therein was entitled to interest on delayed payment of retiral benefits, in the absence of any statutory rules/administrative instructions or guidelines, the Supreme Court, at Paragraph 14 of the judgment, held as follows:

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in the absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our



considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."

7. In view of the judgment of the Supreme Court, it is now well settled that an employee is entitled to interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions or guidelines and he claim for interest, under Part III of the Constitution, relying on Articles 14, 19 and 21 of t can make his he Constitution.

5. In view of the legal principles, this Court is of the considered opinion that the writ petitioner is also entitled for interest for the belated settlement of terminal and pensionary benefits. Accordingly, the respondents are directed to calculate the administrative delay in respect of the settlement of terminal and pensionary benefits in favour of the writ petitioner and to pay the interest at the rate of 7% p.a., and accordingly disburse the interest within a period of 12 weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
School Education Department,
Secretariat,
Chennai.

2. The Director of School Education,
DPI Compound,
Chennai.

3. The Chief Educational Officer,
Dindigul District,
Dindigul.

+1cc to Mr.S.BALAMURUGAN, Advocate, SR.No. 72568

+1cc to M/s.Special Government Pleader, SR.No. 72747

W.P. (MD) No.18712 of 2014

01.07.2019

NS

KK/SAR/17.07.2019/3P-6C