BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.08.2019
CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)NO.708 OF 2018
and
C.M.P(MD)Nos.4065 and 5704 of 2018

1.The District Treasury Officer,
Collectorate Buildings,
Madurai, Madurai District.

2.The Chief Engineer,
Highways and Rural Department,
Chennai. : Appellants/Respondents

.vs.

M.K.Sivagnanam : Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.432 of 2018, dated 25.01.2018.

Prayer in WP(MD). 432/ 2018 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 1st respondent to pay interest at the rate of 8% per annum for the delay in payment of arrears of pension, for the period 2010-2011 and 2011-2012, as per the VI pay commission, to the petitioner within a stipulated period of time.

For Appellants : Mr.VR.Shanmuganathan
Special Govt.Pleader
For Respondent : Mr.S.Thamizharasan

JUDGMENT

[Judgment of the Court was made by **K.RAVICHANDRABAABU,J.**]

This Writ Appeal is directed against the order of the Writ Court made in W.P(MD)No.432 of 2018, dated 25.01.2018.

2.The appellants are the respondents before the Writ Court. The Writ Petition was filed for a mandamus for paying interest at the rate of 8% p.a for the delayed payment of arrears of pension for the period 2010-2011 and 2011-2012, as per the VI Pay Commission.

3.The case of the Writ Petitioner before the Writ Court was that as per the VI Pay Commission, his pension was revised from 1.1.2006 and accordingly, the total arrears of pension to be paid to the Writ Petitioner was calculated as Rs.2,25,185/-. It is further stated by the Petitioner that the above arrears of pension was to be paid in three equal annual installments as per G.O.No.235, Financial Department, dated 1.6.2009. Even though the first installment was paid for the year 2009-2010, the second and third installments for the years 2010-2011 and 2011-2012 were not paid to the Writ Petitioner. It is further stated that only after he made a representation on 29.8.2017 for making such payment, the second and third installments were paid on 16.10.2017. Therefore, the Writ Petitioner claimed interest for the belated payment of second and third installments.

4.The said Writ Petition was opposed by the respondents/appellants by contending that though the first installments was paid, due to some error in pension software, the second and third installments were not paid for the financial years 2010-2011 and 2011-2012. It is also contended that there is no provision for paying interest for the belated payment of pension.

5.The Writ Court, after hearing both sides, found that the second and third installments were settled belatedly and hence, the authorities are bound to pay interest on the belated payment. Accordingly, the Writ Court directed the first appellant to pay the interest at the rate of 8% p.a.

6.Mr.VR.Shanmuganathan, learned Special Government Pleader for the appellants contended that there is no wilful or deliberate intention on the part of the appellants in making the payment of second and third installments belatedly and on the other hand, it was only due to the technical defect found in the pension software, the appellants were not in a position to make the payment then and there. He further submitted that even otherwise, in the absence of any Rule for paying interest, the Writ Court ought not to have granted the relief to the Writ Petitioner.

7.There is no dispute to the fact that the Writ Petitioner is entitled to the arrears of pension calculated in pursuant to the VI Pay Commission proposal. It is also not in dispute that after calculating the arrears, the respondents have chosen to disburse the same in three equal annual installments, commencing from 2009-2010. It is an admitted fact that the first installment was paid in the year 2009-2010. However, remaining two installments for the subsequent financial years namely 2010-2011 and 2011-2012, were not paid to the Petitioner within the due time. The only reason stated in the counter filed before the Writ Court for the delayed payment is that there was some error in the pension software and therefore, it could not be paid in time. This reason is totally unacceptable since the delay is nearly seven years.

8.The learned Special Government Pleader further contended that the Petitioner himself has chosen to give a representation on 13.9.2017 and immediately after receiving the said representation, the arrears were paid and therefore, there is no wilful default. We are not in a position to appreciate the above contention for the simple reason that it is the respondents who have chosen to pay the arrears in three equal annual installments as per G.O.NO.235 and have also paid the first installment for the financial year 2009-2010. Therefore, it is the bounden duty of the respondents to pay the second and third installments also without waiting for a request from the Petitioner. Therefore, non-payment of the second and third installments in time without having any justifiable reason will automatically entitle the Petitioner to seek for interest for such delayed payment. The Writ Court has rightly considered the said aspect and ordered for payment of interest at the rate of 8% p.a with which we find no reason to interfere. Accordingly, the Writ appeal fails and the same stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Treasury Officer,
   Collectorate Buildings,
   Madurai, Madurai District.

2. The Chief Engineer,
   Highways and Rural Department,
   Chennai.

+1 CC to SPL GP (SR-81929[F] dated 16/08/2019)
+1 CC to Mr.S.THAMIZHARASAN, Advocate (SR-82067[F] dated 16/08/2019)

JUDGMENT MADE IN
W.A(MD)NO.708 OF 2018
and
C.M.P(MD)Nos.4065 and 5704 of 2018
14.08.2019

vsn
MK (06.09.2019) 3P 5C