



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD) No.27131 of 2019

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S.Paramaguru

... Petitioner

vs.

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

2.The Director of School Education(Higher Secondary)
College Road
Chennai 600 006

3.The Chief Educational Officer
Trichy District

... Respondents

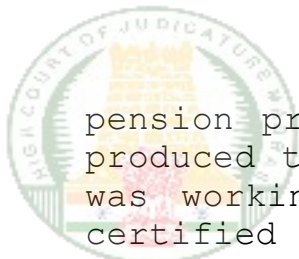
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the respondents to pay the interest for delayed payment of retirement benefits at the rate of 12% per annum to the petitioner, within a reasonable period of time.

For Petitioner	: Mr.P.Ganapathi Subramanian
For Respondents	: Mr.M.Karuppasamy Government Advocate

O R D E R

This writ petition has been filed by the petitioner for issuance of a Writ of Mandamus, to direct the respondents to pay the interest for delayed payment of retirement benefits at the rate of 12% per annum to the petitioner, within a stipulated time.

2.The case of the petitioner is that he was appointed as B.T.Assistant at Government Panchayat Middle School, Rapoosal, Pudukkottai District on 16.08.1983 and he had been transferred to various places. Later, he was promoted as Block Education Officer and was working at Vaiyampatti, Manaparai Taluk, Trichy District and he retired from service on 30.06.2018 on attaining the age of superannuation. Subsequently, the third respondent has issued an order in Na.Ka.No.4136/A1/2018, dated 30.06.2018 where he has stated that the petitioner was permitted to retire from service but the retirement benefits had not been paid. Further, the



pension proposal was not forwarded, since the petitioner had not produced the audit certificate from six Panchayat Union, where he was working. The third respondent by an order dated 21.03.2019 certified that there is no charge or due is pending against the petitioner. The grievance of the petitioner is that though he was retired from service on 30.06.2018, the 3rd respondent issued no due certificate only on 21.03.2019, after a delay of nine months and also the retirement benefits had not been disbursed immediately. The retirement benefits had been disbursed to the petitioner only after a lapse of 8 to 13 months from the date of retirement. Hence, the petitioner has come up with this writ petition.

3.The learned counsel appearing for the petitioner submitted that as per Section 45 of the Tamil Nadu Pension Rules, the petitioner is entitled to 12% interest per annum for the belated payment of retirement benefits.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner has been given the retirement benefits and in view of the pendency of audit certificate, the retirement benefits have not been given immediately after his retirement and therefore, the petitioner is not entitled to interest for the belated payment. Thus, he prayed to dismiss this writ petition.

5. Heard the learned counsel appearing on either side.

6.There is a specific rule available in the Tamil Nadu Pension Rules, 1978 as per Rule 45(1-A) of the Rules which reads hereunder :

"45-A. Interest on delayed payment of gratuity (1-A). The period beyond which such interest is payable shall be as follows -

(i) in the case of a Government servant retired otherwise on superannuation and where the Death-cum-Retirement Gratuity is withheld on account of disciplinary proceeding pending against him. -

(a) three months from the date of retirement where the Government servant is exonerated of all charges and where the Death-cum-Retirement Gratuity is paid on the conclusion of disciplinary proceedings ;"

A reading of the above said provision makes it



abundantly clear that a Government servant is entitled to seek the relief of interest in respect of the delayed payment of Death-cum-Retirement Gratuity three months from the date of retirement.

7. At this juncture, it is relevant to refer the decision of the Honble Apex Court in **S.K.Dua Vs. State of Haryana reported in 2008 (3) SCC 44**. The Honble Apex Court in the said decision has held as hereunder :

"14. In the, 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 circumstances on that basis. But even in 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."

8. The above said principle laid down by the Honble Apex Court is also followed by a Division Bench of this Court in Government of Tamil Nadu Vs. M.Deivasigamani reported in 2009 (3) M.L.J. 1, wherein, the Division Bench has held as hereunder :

"7..... An employee is entitled to claim interest on belated payment of pension and other retrial benefits, even in the absence of statutory rules/administrative instructions or guidelines and he can make his claim for interest, under Part III of the Constitution of India relying on Articles 14, 19 and 21 of the Constitution of India".

9. In view of the principles laid down by the Honble Apex Court and the Division Bench of this Court, this Court has no hesitation to hold that the petitioner is entitled to interest at 12% p.a. and accordingly, the respondents are directed to pay the interest at the rate of 12% p.a. for the delayed payment of retirement benefits as per the Tamil Nadu Pension Rules, within a period of twelve weeks from the date of receipt of a copy of this order.



10. This Writ Petition stands disposed of accordingly.

No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Msa
To

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

2.The Director of School Education(Higher Secondary)
College Road
Chennai 600 006

3.The Chief Educational Officer
Trichy District

+1 CC to MR.P.GANAPATHI SUBRAMANIAM, Advocate (SR-106373[F] dated 20/12/2019)

+1 CC to SPL.GP (SR-106476[F] dated 27/12/2019)

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