

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

DATED: 14.06.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P.(MD)No.12717 of 2011

V.S.Pannirchelvam

... Petitioner

Vs.

- 1.The Secretary to Government,
Social Welfare and
Noon Meal Programme Department,
Secretariat,
Chennai 600 009.
- 2.The Director of Social Welfare,
Chepauk, Chennai 600 005.
- 3.The District Social Welfare Officer,
Theni District,
Theni.

... Respondents

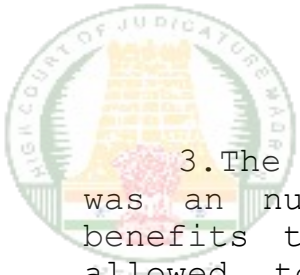
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent relating to her RC.No.34354/Admin-4 (2)/2011 dated 19.10.2011 and quash the same and consequently direct the respondents to claim and make disbursement of interest to the petitioner at the rate of 18% from 01.11.2010 to the date of actual disbursement of al the retirement benefits including pension within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.S.Dhayalan
Government Advocate

ORDER

The order rejecting the claim of the writ petitioner for grant of interest for belated settlement of terminal benefits, dated 19.10.2011, is under challenge in the present writ petition.

2.A direction is sought for to disburse the interest for the belated settlement of pensionary benefits. The writ petitioner joined in the Department of Treasuries and Accounts and he was promoted to the post of Accountant and thereafter, he was deputed to Social Welfare Department. The writ petitioner finally promoted as Industrial Cooperative Officer and he was allowed to retire from service on 31.10.2010.



3. The learned counsel for the writ petitioner states that there was an numerous delay in settling the terminal and pensionary benefits to the writ petitioner. Though the writ petitioner was allowed to retire from service peacefully, the terminal and pensionary benefits are not settled on account of certain administrative delay. The writ petitioner has submitted representations and none of the representations were looked into by the competent authorities. Thus, the writ petitioner is constrained to move the present writ petition claiming interest for the belated settlement of pensionary and terminal benefits.

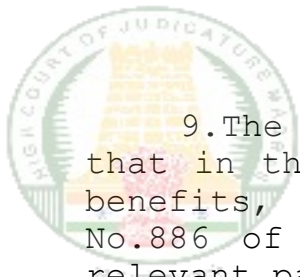
4. The learned Government Advocate appearing on behalf of the respondents states that the service particulars of the writ petitioner were missing and the competent authority were unable to trace out the service particulars of the writ petitioner. The learned Government Advocate informed this Court that there was a fire accident in the Director of Social Welfare, at Chepauk, Chennai and on account of the fire accident, the files were unable to be traced immediately. The delay in settling the terminal benefits was neither wilful nor wanton. On account of certain administrative reasons, the pensionary benefits due to the writ petitioner was unable to settle by the competent authorities.

5. Undoubtedly the reason given by the respondents are convincing, there was a fire accident in the Director of Social Welfare Office and on account of fire accident, the pension proposals were unable to be submitted by the competent authorities in time. Thus, there is a delay in settling the terminal and pensionary benefits to the writ petitioner.

6. This Court is of the considered opinion that though the delay occurred on account of the certain administration reasons, the benefit of interest cannot be denied to the writ petitioner. The reason for delay though convincing, the right of an employee for interest for the belated settlement of terminal and pensionary benefits cannot be denied at all.

7. In the present case on hand, the writ petitioner was allowed to retire from service on 31.10.2010. Thus, the terminal and pensionary benefits are to be settled immediately and without causing any undue delay. The delay in settling the pensionary benefits would not only cause prejudice to the writ petitioner, the same will affect the livelihood of the family of the writ petitioner also.

8. This being the principles to be followed, this Court is of the considered opinion that the writ petitioner is entitled for interest for the belated settlement of terminal and pensionary benefits.



9. The Division Bench of the Madras High Court also reiterated that in the cases of belated settlement of terminal and pensionary benefits, the employee is entitled for interest in Writ appeal No.886 of 2007, dated 17.12.2018 reported in (2009)3 MLJ 1, the relevant paragraph No.7 is extracted hereunder:

"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.

10. In view of the facts and circumstances, the impugned order passed by the second respondent in R.C.No. 34354/Admin-4(2)/2011, dated 19.10.2011, is quashed. The respondents are directed to pay interest at the rate of 7% per annum for the belated settlement of DCRG, arrears of pension, and all terminal and pensionary benefits and calculate the interest amount and settle the same to the writ petitioner within a period of 12 weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (AS)

/ True Copy /

Sub Assistant Registrar (CS-)

To

1. The Secretary to Government,
Social Welfare and
Noon Meal Programme Department,
Secretariat, Chennai 600 009.
2. The Director of Social Welfare,
Chepauk, Chennai 600 005.
3. The District Social Welfare Officer,
Theni District, Theni.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-68766[F] dated 14/06/2019)
+1 CC to M/s.SPL GP (SR-69260[F] dated 17/06/2019)

W.P. (MD) No.12717 of 2011

14.06.2019