

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.409 OF 2020

J.Fernandaz

... Petitioner

-Vs-

1. The Secretary to Government,
Higher Education Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Technical Education,
Patel Road, Guindy, Chennai - 600 025.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to pass appropriate orders on the representation of the petitioner dated 12.12.2019 requesting for payment of interest for the belated payment of Special Provident Fund and Encashment of Earned Leave / Private Affairs and DCRG amount in the light of the orders already passed by the Hon'ble Supreme Court in the case of S.K.Dua Vs. State of Hariyana, within a reasonable period.

For Petitioner : Mr.T.Ranganathan

For Respondent : Mr.S.Karthikei Balan
Government Advocate for
R1 and R2

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the 1st respondent to pay interest on the belated payment of the Special Provident Fund, Encashment of Earned Leave and Encashment of unearned leave on private affairs and also the DCRG amount.

2. It is seen from records that the petitioner was working as the Principal Incharge at Bharathiyar Centenary Memorial Government Polytechnic College for women, Ettaiyapuram,

Tuticorin. He attained Superannuation on 31.03.2010. The petitioner was also allowed to retire from service by the 2nd respondent by his proceedings dated 31.03.2010, without prejudice to the disciplinary action that was pending against him. The petitioner requested the respondents to release the General Provident Fund, Special Provident Fund, encashment of Earned leave and encashment of unearned leave on private affairs, since the petitioner is entitled to receive these amounts irrespective of the results of the disciplinary proceedings.

3. The petitioner approached this Court and filed WP No.1838 of 2018, for a direction to the respondents to settle these benefits to the petitioner. This Court by an order dated 30.01.2018, directed the respondents to disburse the amount to the petitioner, within a period of four weeks.

4. After the orders were passed by this Court, the Government of Tamil Nadu issued orders sanctioning pension, Commutation of pension and DCRG by proceedings dated 03.07.2019. The pensionary benefits and the DCRG amount has been sanctioned and disbursed to the petitioner in the following manner :-

Sl.No.	Name of the benefit	Amount Rs.	Date of Sanction	Date of Settlement
1.	Special Provident Fund	27, 496	23.11.2018	14.02.2019
2.	Encashment of Earned Leave / Private Affairs	4,76,657	23.11.2018	31.07.2019
3.	DCRG	10,00,000	03.07.2019	24.10.2019

5. The petitioner is seeking for interest for the belated settlement of the above benefits and he made a representation to the respondents in that regard. Since no orders came to be passed by the respondents, the present writ petition has been filed before this Court, seeking for interest for the belated payments.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

7. There is no requirement to go into the merits of the

various averments made in the writ petition. The only issue that requires consideration is whether the petitioner is entitled for interest for the belated payment of retirement benefits. The law on this issue has been well settled by the Hon'ble Supreme Court in [S.K.Dua Vs. State of Haryana and another] in Civil Appeal No.184 of 2008. The Hon'ble Supreme Court had categorically held that the pensioner is entitled for payment of interest whenever there is delay in settling the retirement benefits. This judgment has been subsequently followed in various other judgments and this Court had an occasion to deal with entire law on the issue in [M.Suseela Bai Vs.The Government of Tamil Nadu, represented by its Principal Secretary to Government of Tamil Nadu, Revenue Administration Department, Fort St.George, Chennai] reported in 2019 8 MLJ 129. The Division Bench of this Court in no uncertain terms has held that the employee is entitled to claim interest on belated payment of retirement benefits, even in the absence of any statutory rules or guidelines.

8. In this case, there is admittedly a delay in the settlement of the Special Provident Fund, encashment of earned leave, encashment of unearned leave on private affairs and DCRG. The petitioner is entitled for payment under these heads from the date on which he was entitled to receive it, till the date on which it was settled to the petitioner.

9. In view of the above, there shall be a direction to the 1st respondent to consider the representation made by the petitioner on 12.12.2019 and pass appropriate orders, within a period of six weeks from the date of receipt of copy of this order, by granting 6% interest from the date of entitlement till the date of actual payment of the retiral benefits.

10. This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Higher Education Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Technical Education,
Patel Road, Guindy, Chennai - 600 025.

+lcc to Mr.T.Ranganathan, Advocate, S.R.No.12799
+lcc to the Government Pleader, S.R.No.13080

W.P.No.409 of 2020

LN(CO)
CS/28/05/2020



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