

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.143 of 2020

S.Deivasigamani

.. Appellant/Petitioner

vs.

The Government of Tamilnadu,
rep. by the Secretary to the Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.

.. Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 07.11.2019 passed by the learned Single Judge in W.P.No.24012 of 2019 to issue a Writ of Mandamus to direct the respondent to sanction interest for the belated payment of commutation of pension with further interest till the actual date of payment.

For Appellant : Mr.J.Lakshmi Narayanan

For Respondents : Mr.V.Jayaprakash Narayanan
State Government Pleader

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the parties.

2. The only dispute is with regard to non-payment of interest on the commutation of pension amount of the appellant.

3. The background in which this interest is claimed is that the appellant was facing disciplinary proceedings before his retirement, which came to be ultimately settled and a punishment was imposed for cut in pension at the rate of Rs.100/- per month. This was challenged by the appellant in W.P.No.18962 of

2008, which was allowed on 30.04.2010 and the appellant was found entitled to all his retirement benefits. Accordingly, the sum that was withheld came to be finalized after the judgment aforesaid.

4. The appellant thereafter sought payment of interest on all his emoluments post retirement and having not been considered, the appellant filed W.P.No.35242 of 2012. The said writ petition was disposed of on 27.12.2012 with a direction to the competent authority to consider the same. Accordingly, an order came to be passed on 03.03.2014 whereby the appellant was found entitled to interest only on the amount of delayed payment of gratuity as per the Tamil Nadu Pension Rules, 1978. This order categorically states that since interest was payable only in respect of such delayed payment of gratuity, the interest calculated therein was accordingly disbursed to him. The order, therefore, categorically did not allow any other interest except on the delayed payment of gratuity.

5. This order was, admittedly, not challenged.

6. The appellant contends that thereafter in the year 2019, he came to know that one Mr.Chandran, a retired Headmaster, was extended the benefit of interest on payment of commutation of pension on 28.01.2013 and therefore, the appellant could not have been denied the said benefit. This representation was moved on 27.06.2019 after five years of passing of the order of payment of interest referred to herein above in the year 2014.

7. On receiving no response, the appellant filed the writ petition giving rise to the present appeal praying for a mandamus to sanction interest on the delayed payment of commutation of pension. The learned Single Judge dismissed it on the ground of laches indicating that the appellant's services and the dispute relating to the retirement benefits were settled way back in the year 2009-2010 and therefore, the writ petition cannot be entertained after a period of ten years. The writ petition was therefore dismissed on the ground of laches.

8. Aggrieved, the appellant is before us contending that the appellant had no knowledge about any benefit being extended to any other employee and it is therefore in the year 2019 when he came to know that Mr.Chandran had been extended such benefit, a representation came to be filed by him and hence, the conclusion of the learned Single Judge about the laches being on the part of the appellant is not correct.

9. We have considered the submissions raised and we find that the appellant had been communicated the order dated

03.03.2014 in the year 2014 itself whereby no other interest claim was found admissible except on delayed payment of gratuity. The appellant, admittedly, did not challenge that order.

10. The contention raised is that he came to know of such entitlement of interest on the commutation of pension only in the year 2019. We find that this was also only in respect of a claim in the year 2013 itself.

11. The appellant cannot be permitted to raise a claim as and when it comes to his knowledge that too even in the present proceedings he says after almost five years. The learned Single Judge may not have been correct in computing laches of ten years, but we find that even assuming on the admitted case of the appellant, the prayer for interest on the delayed payment of commutation of pension is barred by laches. No such relief can be extended at this stage.

The appeal lacks merit and is accordingly rejected. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Secretary to the Government,
Government of Tamilnadu,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.

W.A.No.143/2020

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