

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.13591 of 2010

M.Xavier

... Petitioner

vs.

1.The Secretary to Government of Tamil Nadu,
Highways Department,
Secretariat,
Chennai-600 009.

2.The Chief Engineer (General),
Highways Department,
Chepauk, Chennai-600 005.

3.The Accountant General,
Theynampet,
Chennai-600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 1st respondent in Letter No.18187/HL1/2004-15 dated 31.08.2009 and quash the same and consequently, direct the 1st respondent to pay interest for the belated payment of his retirement benefits, which is due to him from the date of his retirement on 31.03.2002 in terms of G.O.Ms.No.122/Finance dated 20.02.1995.

For Petitioner : Mr.G.Sudangan

For R1 & R2 : Mr.K.Magesh,
Spl. Govt. Pleader

For R3 : Mr.V.Vijayashankar

O R D E R

The Writ Petition has been filed, seeking to quash the impugned order of the 1st respondent made in Letter No.18187/HL1/2004-15 dated 31.08.2009, by which, the petitioner's request to pay interest for the belated payment of his retirement benefits. The petitioner also sought for a

direction to the 1st respondent to pay interest for the belated payment of his retirement benefits, which is due to him from the date of his retirement on 31.03.2002 in terms of G.O.Ms.No.122/Finance dated 20.02.1995.

2. It is the case of the petitioner that based on the vague and baseless allegations made by one of the Contractors, he was suspended just 3 days before his superannuation by the 1st respondent on 27.03.2002 and after a lapse of three years, charges were framed against him in respect of payment made by way of Demand Draft instead of Cheque. Subsequently, another charge memo was issued on 30.05.2007 alleging substandard works executed in the year 1998-1999. It is the further case of the petitioner that against the said charge memo, he filed a Writ petition in W.P.No.27346 of 2007, which was taken up for hearing along with W.P.No.26946 of 2005 filed against the 1st charge memo and both were given quietus on the basis of the statement made by the Advocate, appeared on his behalf that the petitioner was ready to forgo the interest and the said statement, according to the petitioner, was made without getting consent from him. It is also the case of the petitioner that so far, the entire terminal benefits due to him were not settled and therefore, he is entitled to claim interest for the belated payment of his retirement benefits.

3. Learned Special Government Pleader appearing for R1 and R2 contended that the petitioner, having given up interest portion on earlier occasion before this Court, cannot now seek for interest on the belated payment and the Writ Petition has to be dismissed as not maintainable.

4. Learned Counsel appearing for R3 stated that the 3rd respondent has not been authorized to pay interest on the belated payment and their role is minimal in realizing monies to concerned persons and based on the approval accorded by the concerned Department, the interest would be worked out and the bill presented to the concerned Treasury for drawal and payment.

5. Heard the learned counsel for the parties and perused the material documents available on record.

6. According to the petitioner, though all the terminal benefits have been given, belated payment interest has not been granted to him. It is stated by the petitioner that it is true that the interest portion was given up in the earlier round of litigation and as the same was done without his consent, he is entitled to seek interest in the present petition.

7. This Court is not inclined to go into that aspect in the present petition. In case there was no consent given by the petitioner to his Counsel for giving up the interest portion, he could have very well sought for review of the order passed in the earlier Writ Petitions and without doing so, he has again approached this Court by filing one more Writ Petition with the aforesaid prayer. Since the petitioner had already given up the interest, as could be seen from the averments in the affidavit, this Court cannot direct payment of interest to the petitioner, without giving a go-by to the previous order, even though there was a slight delay in realizing the payment, after the orders of this Court in the earlier Writ Petitions.

8. In fine, finding no merits in the claim made by the petitioner, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government of Tamil Nadu,
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+1 CC to The Govt. Pleader sr 24879

W.P.No.13591 of 2010

GP (CO)
SP (07/12/2020)