IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.5120 of 2020

C.Kanagajothi ... Petitioner

vs.

1. The Secretary to Government,
   Cooperation, Food and Consumer Protection Department,
   Secretariat, Chennai - 600 009.

2. The Registrar of Co-operative Societies,
   170, Periyar EVR Salai,
   Kilpauk, Chennai - 600 010.

3. The Joint Registrar of Co-operative Societies,
   Kancheepuram Region,
   No.5A, Vandavasi Salai,
   Kancheepuram - 631 501. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the representation of the petitioner dated 22.04.2019 for sanction of interest on the belated payment of General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs at the credit of the petitioner as on 30.09.2013, the date of superannuation, calculating the interest from 01.10.2013 till 01.03.2018 the date of settlement, in the light of the orders of the Hon'ble Supreme Court in the case of S.K.Dua v. State of Haryana, within a reasonable period as may be fixed by this Court.

For Petitioners :Mr.T.Ranganathan

For Respondents :Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed for issuance of writ of Mandamus directing the respondents to pay interest on the belated payment of the General Provident Fund, Special Provident

Fund and Encashment of Earned Leave/Private Affairs.

2. It is seen from records that the petitioner was working as the Deputy Registrar of Co-operative Societies. He attained Superannuation on 30.09.2013. It is stated that, though there was no charge memo pending against the petitioner, he was placed under suspension by order dated 28.09.2013 and consequently, he was not allowed to retire from service. Thereafter, the petitioner was issued with a charge memo dated 25.11.2014. Subsequently, the petitioner was allowed to retire from service by order dated 08.12.2016. After the completion of enquiry, he was imposed with a penalty of pension cut of Rs.500/- for a period of three years, by order dated 23.03.2007. The petitioner requested the respondents to release the General Provident Fund, Special Provident Fund, and Encashment of Earned leave/private affairs, since the petitioner is entitled to receive these amounts irrespective of the result of the disciplinary proceedings.

3. The petitioner approached this Court and filed WP No.20480 of 2015, for a direction to the respondents to settle these benefits to the petitioner. This Court, by an order dated 09.07.2015, directed the 1st respondent to settle the General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs, to the petitioner, within a period of four weeks.

4. After the orders were passed by this Court, the 3rd respondent has sanctioned the Encashment of Earned leave/private affairs, by proceedings dated 08.02.2018, and a sum of Rs.5,78,954/- was disbursed to the petitioner through a cheque dated 01.03.2018.

5. The petitioner is seeking for interest for the belated settlement of the above amount 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 payment.

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 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 retirement benefits to the petitioner. The petitioner is entitled for payment under this Head 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 representations made by the petitioner on 18.04.2018 & 22.04.2019 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

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
   Cooperation, Food and Consumer Protection Department,
   Secretariat, Chennai - 600 009.

2. The Registrar of Co-operative Societies,
   170, Periyar EVR Salai,
   Kilpauk, Chennai - 600 010.

3. The Joint Registrar of Co-operative Societies,
   Kancheepuram Region,
   No.5A, Vandavasi Salai,
   Kancheepuram - 631 501.

+1cc to the Government Pleader(co-op),High Court, Madras,
Sr.No.18213
+1cc to M/s.T.Ranganathan ,Advocate, Sr.No.18192

W.P No.5120 of 2020

PPA(CO)
GS(08/06/2020)