

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :17.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 32582 OF 2013

T.Govindan

.. Petitioner

- Vs -

1. The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board, NO.1,
Pumping Station Road,
Chennai 600 002.
2. The General Manager,
Chennai Metropolitan Water Supply and
Sewerage Board, NO.1,
Pumping Station Road,
Chennai 600 002.
3. The Area Engineer X A
Chennai Metropolitan Water Supply and
Sewerage Board, NO.42,
1st Main Road,
Indira Nagar, Adyar,
Chennai 600 020.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondents to pay the interest @12% P.A. On the amount of Rs.1,73,073/- being the amount of delayed payment of his terminal benefits from the date of his retirement till its disbursal on 30.04.2013 by disposing of his representation dated 05.06.2013.

For Petitioner : Mr. S.Mohan

For Respondents: Mr.N.Ramesh

ORDER

The petitioner has come up with the above writ petition praying to direct the respondents to pay the interest @12% P.A. On the amount of Rs.1,73,073/- being the amount of delayed payment of his terminal benefits from the date of his retirement till its disbursal on 30.04.2013 by disposing of his representation dated 05.06.2013.

2. The case of the petitioner is that the petitioner was appointed as Thozhilali at the Langs Garden Pumping Station of the respondent Board with effect from 01.10.1979 and subsequently promoted with effect from 20.12.1984 and thereafter retired from the services of the respondent on 31.08.2009 on superannuation as Depot Manager Grade II. The petitioner made a representation to the 2nd respondent on 26.08.2009 and 28.08.2012 along with necessary copies of the document necessary to compute his services rendered from 01.10.1979 under labour category; for support of his claim of services rendered as Thozhilali at Langs Garden from 01.10.1979 to 10.12.1984, the petitioner sent a representation to the 1st respondent with necessary supportive documents for calculation of qualifying service for pension and gratuity. Since no concrete action was taken, the petitioner filed WP.No.30637 of 2012 and this court by its order dated 04.01.2013 directed the respondent to dispose of the representation dated 26.05.2011 and 28.06.2012 for inclusion of five years period of the basic service as qualifying service while calculating the pension and gratuity together with interest at 12% per annum for the date of retirement till the disbursal in accordance with law within eight weeks. The grievance of the petitioner is that on 02.04.2013 he made a representation dated 02.04.2013 requesting to pay the arrears of pension and gratuity along with interest thereon in pursuance of the orders of this Court but the 1st respondent had paid him a sum of Rs.1,85,000/- only towards arrears of gratuity, commutation amount and pension together with revised pension for the month of April 2013 taking into account the period of service as Thozlialai, without any interest being calculated on it from the date of his retirement. Again the petitioner made a representation to the 1st respondent on 05.06.2013 requesting to pay the interest at 12% on the delayed payment of his terminal benefits. But the respondents denied to pay interest for delayed payment of his terminal benefits because the lapse occurred due to his part. Hence, the petitioner is constrained to approach this Court by filing the present petition.

3. Learned counsel appearing for the petitioners reiterated the grounds raised in the writ petition and contended that the respondents have not considered the petitioners five years service rendered from 01.10.1979 under labour category, and have not calculated properly the retirement benefits, and that the respondent paid only a sum of Rs.173689/- on 30.04.2013 towards pension, gratuity and leave encashment difference, which is against the order passed by in W.P.30637/2012. Hence he prays this Court to direct the respondents to pay interest for the belated terminal benefits, in accordance with law.

4. Learned counsel appearing for the official respondents, submitted that in the matter of settlement of terminal benefits to the petitioner, there was no delay on the part of respondent. The petitioner who was in the Staff category at the time of retirement, his retirement benefits as applicable to the staff category were settled in time according to Regulation 3 of CMWSS Board General Service Regulations. But when the High Court directed to taken into account of the service rendered by the petitioner in the labour category, the same was implicitly carried out, Thus there is no delay nor mala fide intention on the part of respondent in settling his terminal benefits. However, if this Court directs the 1st respondent to consider the petitioner's representation, it will be considered in accordance with law within a particular time frame as fixed by this Court.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. A perusal of the materials available on record reveal that the petitioner has submitted a representation on 5.6.2013 on which, according to the petitioner, no orders have been passed by the respondent. However, the records further reveal that based on information sought for by the petitioner under the Right to Information Act, the respondents, vide their communication dated 11.10.13, making reference to the representation of the petitioner dated 5.6.13, have stated that in view of the orders passed by this Court in WP.No.30637 of 2012 dated 04.01.2013 has been complied with and petitioner's service rendered in labour category from 01.10.1979 to 19.12.1984 have been computed for calculation pensionary benefits and difference of arrears amount credited into his bank account as per the procedure in force. The copy of the reply already sent in this regard is found in the typed set of documents.

7. From the above communication of the respondents, which has been given to the petitioner under the Right to Information Act, it reveals that though certain amounts have been settled to the petitioner on the directions issued by this Court in W.P. No. 30637 of 2012, however, the said communication is silent on the aspect of interest sought for by the petitioner in his representation dated 5.6.13.

8. In such view of the matter, without going into the merits of the issue, this Court directs the 1st respondent to consider the representation of the petitioner dated 5.6.13 insofar as payment of interest on the belated payments made to the petitioner in accordance with law and pass orders thereon

within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed off. However, there shall be no order as to costs.

-s/d-
Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

To

1. The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board, NO.1,
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Chennai 600 002.
2. The General Manager,
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PVS (CO)
SP(01/10/2020)

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