

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 11538 of 2014

N.Peer Nawab Khan

.. Petitioner

- Vs -

1.The Secretary to Government,
Revenue Department,
Secretariat,
Chennai 600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.

3.The District Collector,
Pudukkottai,
Pudukkottai District.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the 1st respondent herein to pay the interest at 18% on the delayed payment of Retrial Benefits viz., (i) Commutation of Pension, (ii) Leave Salary (iii) Special Provident Fund (iv) G.P.F. Closure + G.P.F. Missing Credits, (v) Provisional Pension Arrears and (vi) H.R.A. Arrears, within the time frame by this Court.

For Petitioner : Mr.R.Muthukkannu

For Respondents: Mr.S.Thangavel, Spl.G.P

ORDER

This writ petition has been filed by the petitioner, to direct the 1st respondent herein to pay the interest at 18% on the delayed payment of Retrial Benefits viz., (i) Commutation of Pension, (ii) Leave Salary (iii) Special Provident Fund (iv) G.P.F. Closure + G.P.F. Missing Credits, (v) Provisional Pension Arrears and (vi) H.R.A. Arrears, within the time frame by this Court.

2. According to the petitioner, he was initially appointed as Settlement Inspector in the year 1958 and subsequently acquired various promotion and ultimately promoted as Tahsildar in the year 1998. On attaining the age of superannuation, he was due to retire from service on 31.08.98 afternoon. However, on the last day, he was placed under suspension vide G.O.(2D) No.260, Revenue Department, dated 27.08.1998 and he was not permitted to retire. The charge levelled against the petitioner is that while he was working as Assistant in Taluk Office, Tirumayam, Pudukkottai District, on 23.02.1988 he had demanded Rs.600/- i.e., Rs.400/- for him and Rs.200/- for the Tahsildar for taking prompt action on the application made by one R.Muthupalani for the settlement of Insurance Policy taken by his mother Kothaiammal, who died on 08.02.1988. After receipt of explanation, disciplinary proceedings were initiated and enquiry was conducted, which culminated in the submission of report holding the charges not proved. Thereafter, revocation order was issued revoking his suspension vide order dated 27.08.1998 and the order dated 31.08.1998, by invoking Rule 56 (1)(c) of the Fundamental Rules. Subsequent to the same, retirement and pensionary benefits along with arrears were ordered to be settled from the date of his superannuation on 31.8.1998, however the terminal benefit and commutation of pension were not correctly determined and interest was also not granted on the belated payment of the terminal and pensionary benefits. Therefore, the petitioner approached this Court by filing filed WP.No.9065/2005, to direct the respondents to grant the commuted value of pension under Rule 53(1) (c) of the Fundamental Rules. This Court by its order dated 04.09.2008, allowed the writ petition, granted the retiral benefits as per the Rule. In compliance of the Court order, the petitioner had sent representations dated 16.11.2008 and 24.11.2008, followed by reminders dated 14.05.2009 and the last of the representation dated was sent on 6.07.2009 requesting the respondent to pay interest on the belated payment of retiral benefits. The commuted value of pension was correctly determined and paid on 05.05.2009 and HRA arrears paid on 08.10.2009, however other benefits and interest on other benefits and interest on retirement benefits were not settled till date. Hence the writ petition.

3. Learned counsel for the petitioner submitted that the identical issue arouse for consideration before a Division Bench of this Court in the case of The Government Of Tamil Nadu - vs - M.Deivasigamani (2009 3 MLJ page 1) wherein the Hon'ble Division Bench of this Court held that in view of the decision of the Hon'ble Supreme Court, the employees seeking interest on belated payment of pension and other retirement benefits is well founded and the said decision holds the field till date. Hence this court may issued a direction to settle the payment along with

interest for other benefits which was not with interest.

3.1. Learned counsel appearing for petitioner further drew the attention of this Court to the communications dated 31.01.2014 and 17.02.2014 and prayed that this Court may direct the respondents to pass orders in the light of the decision rendered by the Division Bench in Deivasigamani's case (supra).

4. On the above contention, this Court heard the learned Special Government Pleader appearing for the respondents, who did not dispute the facts as stated by the petitioner and referring to paragraphs nos. 7 and 8 of the counter affidavit submitted that there are no rules in force for granting any interest for the belated payment of retirement benefits except Death cum Retirement Gratuity. However, it is fairly submitted that a Government order is in force for the purpose of sanctioning of interest on belated payment of Death cum Retirement Gratuity

5. the issue regarding payment of interest on belated payment of pensionary, terminal and other retirement benefits is no longer res integra. The Division Bench of this Court, in Deivasigamani's case (supra) on the question of payment of interest on belated settlement of retirement and other terminal benefits, held as under :-

6. The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the Supreme Court in S.K.Due v. State of Haryana reported in 2008 (3) SCC 44. In the reported case, the appellant therein was served with three charge sheets/show cause notices in June 1998, few days before his retirement. However, he retired on 30.06.1998 on reaching the age of superannuation. He was paid provisional pension, but other retiral benefits were not given to him, which included commuted value of pension, leave encashment, gratuity, etc. They were withheld till the finalisation of disciplinary proceedings. While answering the issue as to whether the appellant therein was entitled to interest on delayed payment of retiral benefits, in the absence of any statutory rules/administrative instructions or guidelines, the Supreme Court, at Paragraph 14 of the judgment, held as follows:

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in the absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."

6. In view of the aforesaid binding precedent in law, as above, the petitioner in the present case is entitled to interest on belated payment of retirement and other terminal benefits.

7. Accordingly, for the reasons stated above, the writ petition is disposed of with a direction to the respondents to grant interest on the belated payment of retirement, terminal and other benefits, in the light of the order of the Division Bench in Deivasigamani's case (supra) and complete the above said exercise within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

jrs

To

- 1.The Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009.
- 2.The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.
- 3.The District Collector,
Pudukkottai,
Pudukkottai District.

+1 cc to the Government Pleader sr41413

W.P. NO.11538 OF 2014

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