

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.25858 of 2017

V.B.Mark Jayaseelan Paul

... Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

2. The Accountant General,
Anna Salai, Chennai 600 006.

... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ, Direction or order in the nature of Writ of Certiorified Mandamus calling for the entire records pertaining to the impugned letter order made on 17.04.2017 in Letter (D) No.867/Z2/2016 by the first respondent and consequently direct him to quash the same and direct the first respondent to issue required G.O. sanctioning the statutory interest payment at the rate of 12% compounded annually on the delayed payments DCRG as well based on the representation dated 27.07.2017 by the counsel to the petitioner, to meet both ends of justice and pass orders on merit and in accordance with law, within a time frame fixed by this court.

For Petitioner : Mr.A.S.Palanisamy

For Respondents : Mr.J.Ramesh, Addl.Gov. Pleader

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O R D E R

This writ petition has been filed to quash the impugned letter made on 17.04.2017 in Letter (D) No.867/Z2/2016 issued by the first respondent and consequently direct the first respondent to issue required G.O. sanctioning the statutory interest payment at the rate of 12% compounded annually on the delayed payments DCRG as well based on the representation of the petitioner dated 27.07.2017.

2. The case of the petitioner briefly as follows.

The petitioner is the husband of the deceased P.H.Sweetilin Sugirthabai, Health Nurse, who died on 25.04.1997. After death of his wife he filed representation dated 28.06.2007 and 19.06.2012 seeking family pension and other benefits and since no order was passed, he filed writ petition in W.P.No.24509 of 2012 and obtained order to consider the representation of the petitioner. However, the first respondent, after a delay of 19 years, paid the DCRG amount, without any statutory interest. Hence, the petitioner filed another writ petition in W.P.No.37476 of 2016 and this court directed the first respondent to consider the representation of the petitioner dated 30.08.2016 with regard to the payment of interest.

2.2. The first respondent rejected the plea of the petitioner dated 30.08.2016 for the reason that there are two claimants for the death benefits of the deceased i.e. one is the husband and the another is the sister of the deceased and that the petitioner submitted the legal heirship certificate belatedly. Hence, the petitioner made a detailed reply dated 27.07.2017 to the first respondent and asking payment of interest for the delayed payment of DCRG amount. But there was no reply. Hence this writ petition.

3. The learned Additional Government Pleader submitted that there are two claimants for the death benefits of P.H.Sweetilin Sugirthabai, namely the petitioner and the sister of the deceased. While the deceased was in service, she filed nomination in favour of her younger sister H.Margret Clara. After the death of P.H.Sweetilin Sugirthabai, her sister applied for death benefits by furnishing the death certificate and legal heirship certificate and she received Special Provident Fund, Family Benefit Fund, Encashment of Earned Leave. Subsequently, the petitioner has submitted the legal heirship certificate belatedly during 2007. Therefore, the Tahsildar was requested to report on the genuineness of the legal heirship certificate issued by him. Pending receipt of the report of the Tahsildar, as per the order of this court in W.P.No.24509 of 2012, DCRG amount was paid to the petitioner.

4. According to the respondents, there are two claimants namely the petitioner and the sister of the deceased and the petitioner submitted legal heirship certificate belatedly and hence, there occurred a delay and in such circumstances, the payment of interest on belated payment of death cum retirement gratuity, is not feasible.

5. The claim of the writ petitioner for payment of interest was rejected by the first respondent vide letter dated 17.04.2017. However, the petitioner sent a detailed reply dated 27.07.2017 seeking payment of interest for the DCRG amount and other family benefits. But the first respondent has not sent any reply to the above said representation given by the petitioner.

6. Accordingly, this court directs the first respondent to consider the reply dated 27.07.2017 given by the petitioner and pass orders on merits, in accordance with law, without taking the contentions raised in the counter affidavit, within 12 weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mst
To

1. The Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
2. The Accountant General,
Anna Salai, Chennai 600 006.

+lcc to Mr.A.S.Palanisamy, Advocate, S.R.No. 15052
+lcc to the Government Pleader, S.R.No. 15704

W.P.No.25858 of 2017

CP(CO)
GN(16/03/2020)

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