



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W. P (M) DNo.15004 of 2012

S.Ramachandran

... Petitioner

-Vs-

1.The Chief Education Officer,
Thanjavur.

2.The District Education Officer,
Thanjavur.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for a Writ of Mandamus, directing the second respondent to pass necessary orders for calculation of interest till 18.07.2011 the date of passing the order sanctioning 60% of the sixth pay commission arrears by applying G.O.No.484 dated 8th October 2007 on the amount of Rs.20,648/- and consequently direct the second respondent to pay the amount along with interest for delayed payment.

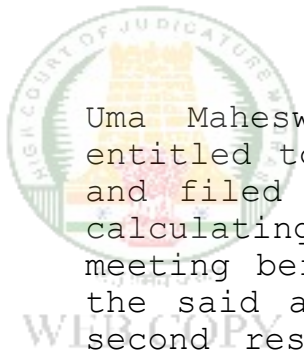
For Petitioner : Mr.V.Chandrasekar

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to pass necessary orders for calculation of interest till 18.07.2011 the date of passing the order sanctioning 60% of the sixth pay commission arrears by applying G.O.No.484 dated 8th October 2007 on the amount of Rs.20,648/- and consequently direct the second respondent to pay the amount along with interest for delayed payment.

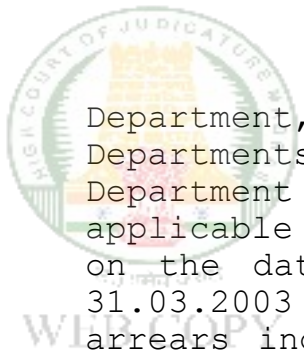
2.The case of the petitioner is that his wife Tmt.S.Andal died on 06.01.1999 while she was in service as a Post Graduate Teacher in
<https://hcservices.ecourts.gov.in/hcservices/>



Uma Maheswara Higher Secondary School at Thanjavur. She was entitled to get the benefits arising out of the death of his wife and filed an application seeking sixth pay commission arrears by calculating the interest as per G.O.No.484 in the grievance day meeting before the District Collector. He filed a petition before the said authority after very long time. Only on 18.07.2011 the second respondent has passed an order for payment of sixth pay commission arrears to the tune of Rs.20,648/- was directed to be credited in the provident fund account vide proceedings in Na.Ka.No.7204/A4/2011, dated 18.07.2011. The interest was calculated only upto 06.01.1999 i.e., till the date of death of his wife. But, the interest has to be calculated upto the date of passing of the order i.e., on 18.07.2011 as per G.O.No.484, dated 08.10.2007. Till date, no interest has been paid to the petitioner's wife. Delay in payment necessarily have to be paid along with appropriate interest. He further submitted that the respondents received the notice issued by him through his lawyer on 10.05.2012, but no reply has been sent by them and hence, he has forced to file the present petition and prayed for writ of Mandamus directing the second respondent to pass necessary orders by calculating the interest at 60% of the sixth pay commission arrears by applying G.O.No.484, dated 8.10.2007 on the amount of Rs.20,648/- along with interest.

3. The second respondent has filed a counter affidavit denying all the averments made in the affidavit and submitted that in G.O.Ms.No.162, Finance (PC) Department, dated 13.04.1998 had been ordered that 60% of the arrears accruing on account of pay revision for the period from 01.01.1996 to 31.03.1999 shall be paid to the employees after 5 years i.e., in the year 2003 with interest admissible to General Provident Fund Account of the Employees. Subsequently in G.O.ms.No.214, Finance (PC) Department dated 15.05.1998 it had been ordered that the above amount shall be paid to the employees after 5 years i.e., in the year 2003 with interest and the interest shall accrue with effect from 01.04.1998. The Government Order in G.O.Ms.No.413, Finance (Pay Cell) Department, dated 31.07.2004 ordered that in respect of those who had retired between 01.01.1996 to 31.03.2004 60% of the arrears of pay and allowances with interest worked out up to 31.03.2003 will now be blocked into a non-interest bearing account from 01.04.2003. The Government Order in G.O.Ms.No.362, Finance (pc) Department, dated 30.09.2005 ordered permitting the District Educational Officer to transfer 60% pay revision arrears standing at the credit of the subscribers of the Teachers Provident Fund, who retired between 01.01.996 and 31.03.2004 both teaching/non-teaching staff of Aided Higher Secondary Schools along with interest upto 31.03.2003 to the non-interest bearing deposit head of account and payment in three annual installments.

4. He further submitted that the Government in partial
<https://hcmadras.judges.gov.in/hcmadras/> the earlier orders issued in G.O.Ms.No.413 (pc)



Department, dated 31.02.2004 and in G.O.Ms.No.414, Finance (pc) Departments dated 31.07.2004 directed in G.O.ms.No.428 (paycell) Department dated 08.09.2007 that the interest shall be paid at 8% as applicable to the General Provident Fund interest rates prevailing on the date of due on the 60% arrears of pay commission beyond 31.03.2003 till the date of issue of orders for the release of arrears indicated as due by the concerned sanctioning authorities. But the above G.O.Ms.No.413 & G.O.Ms.No.414 does not deal the case of death cases. In G.O.Ms.No.484 Finance (pay cell) Department dated 08.10.2007 the modalities on the payment of interest on the 60% pay commission arrears were issued. In G.O.Ms.No.484, Finance (pay cell) Department, dated 08.10.2007 para 3(a) stated as detailed below in respect of death cases.

"In respect of death cases earlier it was ordered that the entire 60% pay commission arrears shall be released in one lump sum along with interest upto 31.03.2003 or the date of death of retired employees whichever is earlier. However, in death cases which occurred after 31.03.2003 the claim for interest would have been restricted to 31.03.2003. As the revised orders issued in G.O.Ms.No.428, Finance (pc) Department, dated 08.09.2007 interest in such cases shall be allowed beyond 31.03.2003 till date of issue orders sanctioning the 60% pay Commission Arrears to the legal heirs. However, in the case of unclaimed death claims the interest shall be permitted upto 31.03.2008 only."

5. According to the respondent that when the petitioner's wife died in the year 06.01.1999, the petitioner ought to have given a claim petition at the earlier point of time. It is stated that in respect of death cases earlier it was ordered that the entire 60% pay commission arrears shall be released in one lump sum along with interest upto 31.03.2003 or the date of death of retired employees whichever is earlier. The petitioner and his legal heirs has given a representation only on 31.03.2010 seeking a claim of 60% pay commission arrears with interest as per G.O.Ms.No.484, Finance Department, dated 08.10.2007 in respect of his wife. All the necessary particulars were collected from the secretary of the concerned school. In respect of Aided Schools all the particulars and proposals are to be collected from the secretary of the concerned school. The secretary of the school had been called for the details of the 60% pay commission arrears to be paid in respect of Tmt.Andal vide R.C.No.878/A5/2012 dated 22.04.2010 and the secretary forwarded necessary proposals on 23.04.2010. Again the secretary had been asked to provide some details in L.Dis.No.2156/A2/2012 dated 06.05.2010. The secretary sent the details on 27.07.2010. After going through the office records on 18.07.2011 the order was passed releasing the 60% pay commission arrears with interest amounting Rs.22547/- and credited in the service account. As per G.O.Ms.No.484, Finance (pay cell)



Departments, dated 08.10.2007 the death cases which occurred after 31.03.2003 and the claim of interest is restricted only up to 31.03.2003. There is no provision to calculate interest beyond 31.03.2013 till the date of issue of orders sanctioning the 60% pay commission arrears. The petitioner's wife had expired on 06.01.1999 i.e., before 31.03.2003 and the petitioner's request could not be considered as the claim was made only on 31.03.2010.

6. The petitioner has claimed interest from 1988 but as per the said G.O.Ms.No.484, Finance (pay cell) Department, dated 08.10.2007 the petitioner is entitled to claim interest only up to 31.03.2008 and not as prayed for the petitioner. In view of the above facts, the respondents are hereby directed to pay the interest for arrears till 31.03.2008 only, within a period of eight weeks from the date of receipt of a copy of this order.

7. In view of the above observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Chief Education Officer,
Thanjavur.

2.The District Education Officer,
Thanjavur.

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-12269)

W.P(M)DNo.15004 of 2012
18.03.2020

am

SDS (04.06.2020) 4P-4C