

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1004 of 2021

P.Punnam

... Petitioner

-vs-

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Block Development Officer,
Kundrathur Block,
Padappai,
Kancheepuram District.
3. The Zonal Deputy Block Development Officer,
Kolapakkam Panchayath,
Chennai 600 128.
4. The Secretary,
Kolapakkam Panchayath,
Kundrathur Panchayath Union,
Padappai, Chennai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the Respondents to take necessary legal action to pay the retirement benefits of the Petitioner including gratuity and pension.

For Petitioner	:	Ms.R.Prabhavathy
For 1st Respondent	:	Mr.P.Karthikeyan, Additional Government Pleader
For Respondents 2, 3 & 4 :		Mr.K.K.Ramesh, Government Advocate

ORDER

Petitioner herein, who retired from the services of the Respondent on reaching the age of superannuation, has come up with the above Writ Petition seeking a direction to the Respondents to take necessary legal action to pay the retirement benefits due to him, including gratuity and pension.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. It is an accepted position of law that, Gratuity and pension are not bounties. The concern expressed by the Hon'ble Supreme Court that, retirement dues must be paid in time, is reflected in the case of Dr.Uma Agarwal vs. State of U.P., reported in (1999) 3 SCC 438, relevant portion of which, reads as under:

"5. We have referred in sufficient detail to the Rules and instructions which prescribe the time-schedule for the various steps to be taken in regard to the payment of pension and other retiral benefits. This we have done to remind the various governmental departments of their duties in initiating various steps at least two years in advance of the date of retirement. If the Rules/instructions are followed strictly, much of the litigation can be avoided and retired government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the government servant. The Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired government servant claims interest for delayed payment, the court can certainly keep in mind the time-schedule prescribed in the Rules/instructions apart from other relevant factors applicable to each case."

4. To understand the need for timely payment of retirement dues, it is appropriate to consider the time limit prescribed under Section 4 of the Payment of Gratuity Act, 1972, which reads as under:

"4.Payment of gratuity:

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease;

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to the heirs.

Explanation.- For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement. "

5. In view of the above and as the Petitioner claims to be eligible for retirement benefits including Gratuity and Pension as per G.O.No.348, dated 28.11.2017, Respondents are directed to consider the Petitioner's request based on the said Government Order, if the same is applicable, and extend the benefits due to him, by passing appropriate orders within a period of two months from the date of receipt of a copy of this order.

6. Respondents shall communicate the decision taken on the Petitioner's request to the Petitioner, within a period of

three weeks from the date of decision taken thereon, by way of SMS/Email/Registered Post/Speed Post, so that there is no need for the parties to file a Contempt Petition after expiry of the specified period. In case, Authorities concerned fail to send communication to the parties, they will have to face civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned unserved for one reason or the other, the same shall be kept in the file without opening it for the sake of proof of delivery, so that the parties, at a later point of time, will not take a plea that, they are not aware of the order of this Court.

The Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The District Collector,
Kancheepuram District, Kancheepuram.
2. The Block Development Officer,
Kundrathur Block, Padappai, Kancheepuram District.
3. The Zonal Deputy Block Development Officer,
Kolapakkam Panchayath, Chennai 600 128.
4. The Secretary,
Kolapakkam Panchayath,
Kundrathur Panchayath Union, Padappai, Chennai.

+1cc to M/S.R.Prabhavathy, Advocate, S.R.No.19245

Order in
W.P.No.1004 of 2021

PMK (CO)
RG.16.04.2021