

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.02.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.3135 of 2021

P.Singaravadivelu

... Petitioner

Vs

1.The Director of Elementary Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

2.The District Elementary Education,
Nagapattinam.

3.The Block Education Officer,
Vedaraniyam.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant interest at 12% for the delayed period on the disbursement of terminal benefits w.e.f. 01.09.2019 to 30.09.2020.

For Petitioner : Ms.T.Aananthi
For R1 to R3 : Mr.P.Raja, GA

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed to direct the respondents to grant interest at 12% for the delayed period i.e., from 01.09.2019 to 30.09.2020 in respect of the disbursement of terminal benefits to the petitioner.

3.It is the case of the petitioner that he retired from service as Secondary Grade Teacher with effect from 31.08.2019. As per the policy of the Government, he is entitled to get extension of service till the end of the Academic year i.e., 31.05.2020, but the petitioner was not given such benefit and was relieved from service, on attaining the age of superannuation. Despite the order of this Court dated 21.10.2019

in WP.No.29863 of 2019, he was not granted extension of service. Hence, the petitioner preferred Contempt Petition No.755 of 2020. Only thereafter, he was paid terminal benefits on 30.09.2020 and there was a delay of 13 months in disbursement of the same. Stating that the petitioner is entitled to get interest for the belated payment of terminal benefits, as per G.O.Ms.No.517, Finance Department dated 12.06.1987 as well the provisions of the Payment of Gratuity Act, 1972, he made a representation on 08.12.2020 to the respondents in this regard. Finding no response on the same, the petitioner has come up with this writ petition for the aforesaid relief.

4.Mrs.T.Aananthi, learned counsel for the petitioner submitted that seeking extension of service is in no way connected with the proposal for grant of pensionary benefits and hence, the petitioner is entitled to get interest for the belated payment of terminal benefits. In support of her submission, the learned counsel placed reliance on the decision of the Supreme Court in S.K.Dua v. State of Haryana and others [MANU/SC/7048/2008 : 2008 (3) SCC 44], wherein, it was 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 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."

The learned counsel further submitted that the petitioner's representation claiming interest for the delayed period from 01.09.2019 to 30.09.2020 was not considered by the respondents and hence, appropriate order may be passed in this writ petition.

5.Mr.P.Raja, learned Government Advocate taking notice for the respondents 1 to 3, fairly submitted that the respondent authorities would consider the claim of the petitioner and pass appropriate orders, on merits within a time frame to be stipulated by this Court.

6.Heard both sides and perused the documents placed before this Court,

7.It is seen that the petitioner retired from service on 31.08.2019 on attaining the age of superannuation. He sought extension of service, which was not granted by the respondents, despite the order of this Court dated 21.10.2019 in WP.No.29863 of 2019. After initiating the contempt proceedings, the petitioner was paid the terminal benefits i.e., on 30.09.2020 and there was a delay of 13 months in settlement of the same. Therefore, he claimed interest for the belated payment.

8.In the opinion of this Court, the pension is a valuable right of a Government servant and the same cannot be treated as a bounty to be handed out by the respondents at their whims. If such payment is delayed, the petitioner would be entitled to get interest for the same. Hence, considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, the respondent authorities are directed to consider the representation of the petitioner dated 08.12.2020 and pay interest at the appropriate rate for the delayed period, within a period of eight weeks from the date of receipt of a copy of this order.

9.With the above direction, the writ petition stands disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mtl

To

1.The Director of Elementary Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

2.The District Elementary Education,
Nagapattinam.

3.The Block Education Officer,
Vedaraniyam.

+1 cc to the Government Pleader High Court Madras
sr 8824

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aa09/03/2021