IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 12.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.25972 of 2011

C.Rajalingam ... Petitioner

Vs.

1.The Chief Executive Officer
Khadi and Village Industries Board,
Kuralagam, Chennai 600 104.

2.The Assistant Director
Khadi and Village Industries Board
No:21/16, Mudhalimar North Street,
Kottar, Near Saveriarkoil,
Nagercoil -2, Kanyakumari District. ... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to calculate and disburse the General Provident Fund final amount together with interest in respect of the Petitioner's General Provident Fund Account bearing No.2349, as per the calculations in Accounts Slip furnished in the year 2003-2004.

For Petitioner : Mr.L.Rajasekar
For Respondents : Mr.S.K.Bose

ORDER

The prayer sought for herein is to issue a writ of mandamus directing the first respondent to calculate and disburse the General Provident Fund final amount together with interest in respect of the petitioner's General Provident Fund Account bearing No.2349, as per the calculations in Accounts Slip furnished in the year 2003-2004.

2.The petitioner after having served for long years at the respondent Board, has retired from service on 29.02.2008. After his retirement, though other retiral benefits was paid to the petitioner, that GPF benefit was not given to the petitioner despite his attempts, therefore, after waiting for some years, as the GPF contribution was not given to the petitioner, he has filed this writ petition before this Court with the aforesaid prayer.

3.Heard Mr.L.Rajasekar, learned counsel appearing for the petitioner, who would submit that, the GPF contribution of the petitioner with retiral benefits should have been disbursed immediately after he superannuated in the year 2008 itself. Despite the said fact, though requests have been made, the same was not disbursed immediately. Therefore, after waiting for more than three years, the petitioner was triggered to file this writ petition with the aforesaid prayer and even till date, even though a sum of Rs.96,271/- was paid sometime in May 2010, the superannuation GPF contribution benefit with accrued interest for the belated payment since have not been so far disbursed. Hence, the petitioner, expecting those arrears of GPF contribution with interest, is seeking indulgence of this Court to give a direction to pay the same within a time frame.

4.Per contra, S.K.Bose, learned Standing Counsel appearing for the respondents i.e., the Khadi and Village Industries Board, by relying upon the written instructions given by the respondents, would submit that, the petitioner while he was in service faced the disciplinary proceedings, pursuant to which, it ended in termination of service, as against which, the petitioner filed the writ petition before this Court. However, as per the relevant Rule governing the GPF contribution, those who had been terminated, unless and until preferred an appeal which is decided in their favour, such kind of GPF contribution shall be withheld by the respondents. Therefore, awaiting the orders to be passed in the writ petition/appeal filed by the petitioner, as against his termination, the GPF contribution which should have been paid back to the petitioner, of course on the superannuation in the year 2008 could not be paid and it has been withheld till the decision comes from the Court.

5.However, the decision came in the year 2010, where the termination order passed against the petitioner was quashed and the petitioner was directed to be reinstated, however, the benefits shall be conferred on him notionally for the said period where the petitioner was working.

6.Only thereafter, i.e., after 2010, immediately the petitioner was directed to send the advance receipt for the payment of GPF contribution, since the said advance receipt was not paid, excepting the advance receipt, the GPF contribution which accrued till the date of termination of service of the petitioner along with the interest, calculated as Rs.96,271/-, was paid to the petitioner by citing the representation dated 27.07.2011, which the petitioner received, of course without prejudice to the contention, he raised in this writ petition. The further averment made in the written instructions of the respondent, as quoted above, by the learned counsel for the respondents is that, subsequently also, during the pendency of this writ petition, the inadvertent omission in calculating the GPF amount for some months in the year 1986-1998 was also calculated and accordingly, the said amount of Rs.1625/- also was paid along with the interest, thus, totally a sum of Rs.3860/- was paid vide cheque dated 13.07.2012. Also, the Pay Commission Arrears II amount of Rs.29,604/- was also disbursed to the petitioner through ECS on 10.04.2012. Also, with regard to security deposit amount with interest which comes about Rs.3294/- calculated and paid to the petitioner on 04.04.2012.

7.Having relied upon these averments, where, the entire arrears amount or due to be payable to the petitioner after his retirement under various heads since has been disbursed completely to the petitioner, there is no amount still in balance or due to the petitioner from the employers, hence, the prayer sought for by the petitioner since having been already accomplished, the writ petition can be disposed of accordingly, he contended.

8.I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

9.In view of the said written averments made by the respondents, where they have given the exact payments that was made to the petitioner with interest under various heads, which includes the contribution in the GPF with interest and the remaining amount of GPF, which was inadvertently not included in the first payment and arrears of Pay Commission second amount and also the security deposit with interest. When these amounts are paid, even though after filing of this writ petition i.e., during the pendency of the writ petition, it has become clear that, as of now, there is no due payable to the petitioner under these heads, i.e., GPF, Pay Commission Arrears, Security Deposit and the interest thereon.

10.In view of the said amounts having been paid to the petitioner, which the petitioner has received, this Court feels that, no further direction is required to be given to the respondents for making the payment if any, since has already paid the entire amount, as indicated above.

11.In view of the above, this Writ Petition does not require any orders to be passed as sought for by the petitioner, hence it is dismissed, by recording the aforesaid development. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Executive Officer
Khadi and Village Industries Board,
Kuralagam, Chennai 600 104.

2.The Assistant Director
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No:21/16, Mudhalimar North Street,
Kottar, Near Saveriarkoil,
Nagercoil -2, Kanyakumari District.

+1cc to Mr.L.Rajasekar, Advocate, S.R.No. 8514

W.P.No.25972 of 2011

KK(CO)
GN(23/07/2021)