

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.02.2021
CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.27049 of 2011

P.Chandran

... Petitioner

-Vs-

1.The Chief Educational Officer
Thiruvavarur District, Thiruvavarur.

2.The Headmaster,
Government High School
Vikkirapandiam
Thiruvavarur District.

3.The Accountant General of Tamil Nadu
(Accounts and Entitlement), Teynampet
Chennai - 600 018.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to pay interest for the belated payment of retirement benefit at the rate of 10% per annum.

For Petitioner : Mr.A.S.Ragul Adhithya
for M/s.P.T.Ramadevi

For Respondents :Mr.S.Suresh Kumar,
Government Advocate
For RR 1 and 2
Ms.T.S.Selvarani,
Standing Counsel for R3

O R D E R

The prayer sought for herein is to direct the respondents to pay interest for the belated payment of retirement benefit at the rate of 10% per annum.

2. That the petitioner was working as Physical Education Teacher in the Government High School at various places and finally on attaining superannuation, he retired from service on 31.01.2006 from the second respondent School. Well before his superannuation, he has submitted his pension papers and application for Death-Cum-Retirement-Gratuity (hereinafter referred to as DCRG) to the second respondent, who ought to have forwarded the same in time ie., well before his superannuation to the third respondent through the first respondent.

3. However, according to the petitioner, the pension proposal was forwarded by the second respondent belatedly,

ie., only on 19.06.2006 and thereafter even though it was returned by the second respondent seeking some clarification, after clarifying the same, though the same could have been resubmitted immediately, the second respondent took much time and it seems that, he had resubmitted the same only on 03.12.2007. However, immediately the third respondent sanctioned the pension on 30.01.2008. Therefore, in forwarding the proposal as well as the resubmission of the proposal, there has been inordinate delay of more than 1½ years. With the result, though the petitioner retired from service on 31.01.2006, he had been sanctioned pension and retiral benefits only on 30.01.2008, nearly after two years. Therefore, as per the Rule envisaged under various Government Orders, the petitioner is entitled to get 10% interest for the belated payment of pensionary benefits. Hence the present writ petition has been filed with the aforesaid prayer.

4. Heard Mr.A.S.Ragul Adhithya, learned counsel appearing for the petitioner, who has reiterated the aforesaid facts and would submit that, there is absolutely no reason attributable on the part of the petitioner for causing such delay, as he admittedly sent the application to the second respondent with all relevant papers and particulars well before his superannuation and the same had been kept pending for nearly about 5 to 6 months and was belatedly forwarded to the second respondent admittedly only on 19.06.2006. Therefore, there was a delay of nearly about six months in forwarding the proposal itself. He would also submit that, once a clarification was sought for by the third respondent, after having clarified the same, the pension proposal could have been resubmitted by the second respondent, where also the proposal has not been resubmitted immediately and it was resubmitted only on 03.12.2007, where there is a delay of more than a year and three months. Therefore, altogether it had taken nearly about two years to sanction the pension and hence for such kind of belated disbursement of DCRG and pensionary benefits, certainly the employees are entitled to get interest and in this regard, the learned counsel for the petitioner has relied upon the relevant Rule in the Tamil Nadu Pension Rules as well as the Government Order to that effect and seeks indulgence of this Court to issue writ of mandamus as sought for.

5. Per contra, learned Government Advocate appearing for the respondents 1 and 2, by relying upon the averments made in the counter affidavit filed on their behalf, would submit that, there has been no delay caused by the second respondent or the first respondent in forwarding the pension papers to the first respondent and when the pension papers were returned by the third respondent for clarification and rectification of certain mistakes in respect of such rectification, which was sought for by the third respondent, instead of rectifying the same, the petitioner has filed a writ petition in W.P.No.35408 of 2006 before this Court and since the said writ petition was pending before this Court, the second respondent could not immediately process the resubmission of the proposal and

therefore the delay caused in this regard for resubmission of proposal cannot be attributed on the second respondent or first respondent and it is because of the own action on the part of the petitioner, who approached this Court by way of filing a writ petition.

6. He would also submit that, once the proposal was resubmitted on 03.12.2007, without any loss of time, immediately that was processed by the third respondent and they passed the order on 30.01.2008 sanctioning pension and DCRG. Therefore, there is absolutely no delay on behalf of the first and second respondents. Hence, the prayer sought for herein seeking interest for such alleged delayed payment of pensionary benefits may not arise in this case and hence the learned Government Advocate submits that, the writ petition deserves to be dismissed.

7. Taking the same lines, Ms.Selvarani, learned Standing Counsel for the third respondent would submit that, on the part of the third respondent, the proposal since was forwarded by the second respondent only on 19.06.2006, immediately the same was processed and after processing the same, it was found that there were certain defects. Therefore, seeking clarification and rectification of such defects, the proposal was immediately returned in the month of July 2006. However, that has been kept pending at the second respondent office and they resubmitted the same only on 03.12.2007 and on receipt of the same, within the shortest possible time, it was processed once again and accordingly the pension was sanctioned on 30.01.2008 and therefore, on the part of the third respondent, absolutely there is no delay, she contended.

8. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents and have perused the materials placed on record.

9. Insofar as the submission of the pension proposal is concerned, there is no delay on the part of the petitioner as he has submitted necessary papers well before his superannuation ie., on or before 31.01.2006.

10. Despite the same, the second respondent has taken at least 5 to 6 months to forward such proposal, as admittedly it was forwarded only on 19.06.2006. Therefore, definitely there is a delay of six months in the forwarding of the proposal at the hands of the second respondent.

11. Subsequently, when the proposal was returned by the third respondent in July 2006, it could have been immediately rectified and resubmitted and in this regard, even though the reason of pendency of the writ petition filed by the petitioner was shown by the second respondent as well as the first respondent, as projected by the learned Government Advocate, the fact remains that, the writ petition was decided subsequently only in the year 2008. But, unmindful of the

same, or even well before the decision taken by the writ Court in the writ petition filed by the petitioner, the pension proposal was resubmitted by the second respondent on 03.12.2007. This fact would disclose that the second respondent could have rectified the mistakes and clarified the position and resubmitted the proposal immediately. But, the reason ie., pendency of the writ petition, was the reason for delay is not appreciable, in view of the fact that, even during the pendency of the writ petition, though belatedly, it has been resubmitted on 03.12.2007. Therefore, the said delay caused on the part of the first and second respondents of course after clarification, is without any plausible reason. Therefore, it can also be construed as delay in processing the pension proposal on the part of the first and second respondents.

12. Therefore, it is clear that there has been inordinate delay on the part of the respondents 1 and 2 in forwarding and resubmitting the pension proposal. With the result, the petitioner could not get the pensionary and retirement benefits within the shortest possible period and belatedly he was able to get it only after two years.

13. If this kind of delay in disbursement of pensionary benefits is made, as has been rightly pointed out by the learned counsel for the petitioner, both under Tamil Nadu Pension Rules as well as the relevant Government Orders, which are in vogue, the retired employee is entitled to get reasonable interest.

14. In this regard, if the delay is caused for more than a year, an employee is entitled to get 12% interest as per the relevant Rules and Government Orders. However, the prayer is only for 10% ie., well within the limit prescribed under the relevant Government Orders. Therefore, the petitioner is entitled to get such interest for the DCRG as well as pensionary benefits.

15. In that view of the matter, this Court is inclined to dispose of this writ petition by passing the following order. That the respondents are hereby directed to pay interest for the belated payment of DCRG and pensionary benefits payable to the petitioner at the rate of 10% per annum from the date it has become due till the date of actual payment. The needful as indicated above shall be undertaken and the interest amount, after due calculation, shall be disbursed to the petitioner within a period of twelve (12) weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

KST

To

1.The Chief Educational Officer
Thiruvavarur District, Thiruvavarur.

2.The Headmaster,
Government High School
Vikkirapandiam
Thiruvavarur District.

3.The Accountant General of Tamil Nadu
(Accounts and Entitlement), Teynampet
Chennai - 600 018.

+1 cc to Government Pleader Sr.No. 10445

+1cc to M/s.P.T.Ramadevi, Advocate SR.No. 10160

W.P.No.27049 of 2011

A.SK(18.05.2021)



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