IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.29336 of 2011
and M.P.No.1 of 2011

K.Chinnan ... Petitioner

Vs.

1. The Director of Local Fund Audit,
   Kuralagam 4th Floor, Chennai 108.

2. The Commissioner,
   Valparai Municipality,
   Valparai 642 127. ... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the respondents to pay the interest at the rate of 12% for the delayed payment of retirement benefits as well as pension to the petitioner within a time framed by this Court.

For Petitioner : Mr.M.Muthappan

For Respondent No.1 : Mr.T.Sampathkumar, G.A.

For Respondent No.2 : No appearance

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ORDER

According to the petitioner, the petitioner was retired from service on 31.7.2009 and though the terminal benefits were sanctioned on 28.10.2010 cheque has been issued to the petitioner only on 16.09.2011. Therefore, there is a delay in settling the terminal benefits to the petitioner and therefore, the petitioner is entitled for interest at the rate of 12% p.a. for the belated payment.

2. The first respondent filed counter affidavit wherein it is stated that as per the Tamil Nadu Pension Rule interest is allowed only on delayed payment of Gratuity and interest is not allowed on the delayed payment of Pension and Commutation. Further, it is stated that Pension proposal has to be submitted by the retiring employee one year before his date of retirement, whereas in this case, the petitioner who retired on 31.7.2009 submitted his pension proposal only 14.6.2010 and as such the petitioner is not eligible to claim interest. Further, it is stated that Pension proposal was processed and kept ready for payment in the month of May, 2011. The delay is on account of insufficient balance in the pension fund during May, 2011. Therefore, the delay is not wanton or deliberate on the part of the respondent.

3. Heard the rival submissions of the parties and perused the materials available on record.

4. According to the learned Government Advocate appearing for the respondent, Pension proposal has to be submitted by the retiring employee one year before his date of retirement, whereas in this case, the petitioner who retired on 31.7.2009 submitted his pension proposal only 14.6.2010 and as such the petitioner is not eligible to claim interest. On perusal of the counter affidavit filed by the first respondent, it is found that the Pension proposal was processed and kept ready for payment in the month of May, 2011. As there as insufficient balance in the pension fund during May, 2011, the first payment of DCRG + Commutation to the pensioners was delayed anticipating the receipt of grant from Government. Therefore, there is delay in settling the terminal benefits to the petitioner.

5. In view of the stand taken by the first respondent in the counter affidavit and taking into account the date of submission of the Pension proposal, there is a delay in processing and sanctioning the amount by the Government and finally settled the terminal benefits only on 16.9.2011. Therefore, there is a delay of more than one year at the hands of the respondent for processing and sanctioning the amount paybale to the petitioner. Therefore, the petitioner is entitled for interest for the delayed payment and this Court is inclined to grant interest at the rate of 6% p.a. from the date of Pension proposal submitted i.e. on 14.6.2010 and till the date of amount paid to the petitioner i.e. On 16.9.2011.

6. The writ petition is disposed of with the above directions. No cost. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

vaan

To

1.The Director of Local Fund Audit,
Kuralagam 4th Floor, Chennai 108.

2.The Commissioner,
Valparai Municipality, Valparai 642 127.

+1cc to Mr.M.Muthappan, Advocate SR.No.68357
+1cc to the Government Pleader, SR.No.69070

W.P.No.29336 of 2011
and M.P.No.1 of 2011

RSV(CO)
CB(04/01/2022)