

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2519 of 2015

M.Abraham

... Petitioner

Vs.

- 1.The Secretary to Government,  
Health & Family Welfare Department,  
Fort St.George,  
Chennai - 600 009.
- 2.The Director of Public Health &  
Preventive Medicine,  
D.M.S.Complex,  
No.359, Anna Saalai,  
Chennai - 600 006.
- 3.The Deputy Director of Health Services,  
Krishnagiri District.
- 4.The Block Medical Officer,  
Government Primary Health Centre,  
Kakkadasam,  
Krishnagiri District.
- 5.The Principal Accountant General,  
(Accounts and Entitlement),  
Teynampet,  
Chennai - 600 018.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to pay interest at the rate of 12% Per Annum for the belated payment of pension and other retirement benefits within a stipulated period.

For Petitioner : Mr.R.Prem Narayan

For Respondents: Mr.K.K.Ramesh for R1 to R4  
Government Advocate  
Mr.S.Balaji for R5

## O R D E R

The petitioner has filed this writ petition seeking direction to the respondents to pay interest at the rate of 12% p.a. for the belated payment pension and other retirement benefits.

2.The case of the petitioner is that he was working as Special Grade Driver at Government Primary Health Centre, Anchetty, Krishnagiri District under the control of respondents 1 to 4 and retired from service on 31.08.2012 on attaining the age of superannuation.

3.It is the further case of the petitioner that his retirement benefits were belatedly settled and that in the Pension Payment Order, his initial was wrongly typed as 'A' instead of 'M' and hence pension was not paid to him immediately. Thereafter, the said error was rectified and he was paid pension, but belatedly. Claiming interest for the belated payment of retirement benefits, the petitioner has preferred this writ petition.

4.The fourth respondent has filed a counter affidavit stating that the pension amount was credited to the petitioner's account within one month, but the delay was caused for the reason that the petitioner's initial was wrongly typed as 'A' instead of 'M' by the fifth respondent which is neither wilful nor wanton and is purely a typographical error.

5.The fifth respondent has filed a counter affidavit stating that for the payment of interest on delayed payments, no specific authorisation from the fifth respondent is necessary. However, on the strength of sanction accorded by the Departments of Secretariat, interest may be worked out by the Department and a bill be presented to the concerned Treasury/ Pay and Accounts Office for drawal and payment to the pensioner.

6.Heard all the parties and perused the materials available on record.

7.According to the petitioner, the retirement benefits were disbursed to him belatedly and hence, the respondents are bound to pay interest for the same. Whereas, the respondents stated that due to administrative reason, the delay, if any, had occurred, which is neither wilful nor wanton and if the said claim of the petitioner is allowed, it would cause irreparable loss to the Government exchequer.

8.It is an admitted fact that the petitioner retired from service on 31.08.2012 and the retirement benefits were paid to him belatedly. This Court is of the view that 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 even for a few months, the petitioner would be entitled to get some interest for the same. In the decision of the Supreme Court in S.K.Dua v. State of Haryana and others [MANU/SC/7048/2008: 2008 (3) SCC 44], 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."

Applying the aforesaid ratio decidendi to the facts of the present case, this Court directs the respondents to consider the claim of the petitioner seeking interest at applicable rate, for the belated payment of retirement benefits, and pass appropriate orders, in accordance with law, 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.

Sd/-  
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,  
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Chennai - 600 009.

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Kakkadasam,  
Krishnagiri District.

5.The Principal Accountant General,  
(Accounts and Entitlement),  
Teynampet,  
Chennai - 600 018.

+1cc to Mr.S.Balaji, Advocate, S.R.No.6829

+1cc to Mr.Mr.R.Prem Narayan, Advocate, S.R.No.6756

+1cc to the Government Pleader, S.R.No.6787

W.P.No.2519 of 2015

SS(CO)  
CB(09/07/2021)

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