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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No.10095 of 2020
(Through Video Conferencing)

G.Vijayan

... Petitioner

Vs

1. The District Collector,
Palladam Road, Tiruppur,
Tiruppur District - 641 604.

2. The Accountant General (A&E),
Tamil Nadu Circle,
261, Anna Salai,
Chennai - 600 018.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to settle all the retirement benefits of the petitioner such DCRG, Commutation of Pension, GPF, Regular Pension based on the revised pay scale in force etc., along with interest and penal interest as per Pension Rules 45 and other Government orders in force within reasonable time.

For Petitioner	: Mr.R.S.Anandan
For R1	: Mr.L.S.M.Hasan Fizal Government Advocate
For R2	: Ms.T.S.Selvarani

ORDER

The Petitioner has filed this writ petition, seeking for issuance of a Writ of Mandamus, to direct the respondents, to settle all the retirement benefits of the petitioner such DCRG, Commutation of Pension, GPF, Regular Pension based on the revised pay scale in force etc., along with interest and penal interest as per Pension Rules 45 and other Government orders in force.



2. The petitioner has attained the age of superannuation on 31.01.2017 and just one day prior to his retirement/superannuation, a disciplinary proceeding was initiated against the petitioner. He was however allowed to retire from his service subject to final outcome of the disciplinary proceeding. The aforesaid disciplinary proceeding was challenged by the petitioner in W.P.No.28044 of 2017.

3. By an order dated 06.09.2018, the writ petition filed by the petitioner was allowed by stating that the disciplinary proceedings under Rule 17(A) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules, 1955 was non est and no further appeal has been preferred against the said order.

4. It is the case of the petitioner that the petitioner had withdrawn partially the General Provident Fund but the remaining amount was not paid. No pension was paid even though the writ petition came to be allowed as early as on 06.09.2018.

5. The learned counsel for the petitioner submits that after an order came to be passed by this Court in this writ petition on 01.09.2020, the respondents have started paying pension and cleared the arrears of other retiral benefits to the petitioner. However, the respondents have still not paid the Special Provident Fund to the petitioner, amounting to Rs.25,000/- and interest on the delayed payment of the pension and arrears. He submits that as per Rule 45A (1-A) of the Tamil Nadu Pension Rules, 1978, the petitioner is entitled to interest. The aforesaid rule reads as under:-

"45A. Interest on delayed payment of Gratuity. -

[(1 -A) The period beyond which such interest is payable, shall be as follows :-

(i) in the case of a Government servant retired otherwise on superannuation and where the death-cum-retirement gratuity is withheld on account of disciplinary proceeding pending against him:-

(a) three months from the date of retirement where the Government servant is exonerated of all charges and where the death-cum-retirement gratuity is paid on the conclusion of disciplinary proceedings.



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(b) three months from the date of death where the disciplinary proceedings are dropped on account of death of a Government servant.

(c) three months from the date of issue of orders by the competent authority allowing payment of death-cum-retirement gratuity where the Government servant is not

(ii) six months from the date of retirement of a Government servant otherwise than on superannuation under Fundamental Rule 56(2) or 56(3) or rules 33, 36, 38, 39 and 42 of the Tamil Nadu Pension Rules, 1978.

(iii) six months from the date of death of a Government servant while in service and where the delay is not caused on account of more than one claimant

(iv) three months from the date of issue of orders revising the emoluments where the amount of death-cum-retirement gratuity already paid is enhanced on account of revision of emoluments and

(v) six months from the date of absorption in the case of permanent absorption in the Public Sector Undertakings or Autonomous Bodies otherwise that on en mass transfer on conversion of Government department or a part thereof into Public Sector Undertakings or Autonomous Bodies.]

[(2) The Government shall be the authority competent to sanction such interest.]

6. The learned counsel for the petitioner further submits that as per G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995, the interest to be paid at 12% has been enhanced. He therefore submits that towards delayed payment of arrears, the respondents are required to pay interest at 12%.

7. The learned counsel for the respondents submits that the respondents have complied with the directions of this Court and pension has also been paid to the petitioner. Under these circumstances, nothing survives for adjudication in this writ petition. It is therefore submitted that this writ petition may be dismissed.



8. I have considered the arguments advanced by the learned counsel for the petitioner and the respondents.

9. There is no dispute that the petitioner is not entitled for the amounts which were to be paid to the petitioner immediately. However, there has been abnormal delay. Therefore, the respondents are duty bound to pay interest on the delayed payment of the petitioner.

10. Considering the above, I direct the respondents to pay interest at 12% in terms of Rule 45A (1-A) read with G.O.Ms.No.122, dated 20.02.1995, together with Special Provident Fund which has not been paid to the petitioner till date, within a period of eight weeks from the date of receipt of a copy of this order.

11. This Writ Petition stands disposed with the above directions. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Palladam Road, Tiruppur,
Tiruppur District - 641 604.
2. The Accountant General (A&E),
Tamil Nadu Circle,
261, Anna Salai,
Chennai - 600 018.

+1CC to Mr.R.S.Anandan, Advocate, Sr.No.37536
+1CC to Government Pleader, Sr.No.38010

W.P. No.10095 of 2020

PL(CO)
K.RK. (24.08.2021)