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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.40878 of 2016

P.Nainarsamy

... Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department
Fort St.George,
Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.

3.The Divisional Forest Officer,
Social Forestry Division,
Vellore - 9,
Vellore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pay interest for the belated disbursement of retirement benefits i.e., interest from 01.05.2014 to 01.06.2015 on Rs.1,69,840/- representing Pay and arrears of pay; Rs.1,69,840/- towards dearness allowance and Rs.11,000/- towards house rent allowance; from 01.05.2014 to 08.09.2015 on Rs.4,86,360/- representing DCRG; from 01.05.2014 till 14.10.2015 on Rs.2,55,870/- representing the commuted value of pension and Rs.63,566/- towards arrears of pension, at the rate of 12% per annum from 01.05.2014 till the respective date of disbursement of the retirement benefits within a period to be specified by this Honourable Court.

For Petitioner	: Mr.S.Mani
For Respondents	: Mr.M.Elumalai
	Additional Government Pleader



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O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents to pay interest for the belated disbursement of retirement benefits.

2.The case of the petitioner is that he was appointed as Forest Watcher on 01.05.1982 in the Forest Department and was subsequently, promoted as Forest Guard in September, 1994 and further promoted as Forester on 09.09.2009. He reached the age of superannuation on 30.04.2014, but he was not permitted to retire from service citing pendency of departmental proceedings initiated against him vide proceedings dated 10.04.2014. After enquiry, the charges levelled against the petitioner were dropped and vide proceedings dated 29.05.2015, he was permitted to retire from service. Thereafter, he was settled with the retirement benefits, however, belatedly. Hence, he made representation dated 15.07.2015 to the respondents seeking interest for the belated payment of retirement benefits. Since there was no response, he has filed this writ petition for the aforesaid relief.

3.The third respondent has filed a counter affidavit stating that on completion of enquiry proceedings, the petitioner was discharged from the charges leveled against him and he was allowed to retire on 29.05.2015 and all his retirement benefits were disbursed and settled on 09.09.2015 and there is no delay on the part of the respondent.

4.Heard both sides and perused the materials available on record.

5.It is seen that the petitioner was not permitted to retire from service on account of pendency of disciplinary proceedings, though he reached the age of superannuation on 30.04.2014. However, after due enquiry, the charges levelled against him were dropped, due to which, he was allowed to retire from service with effect from 30.04.2014, by proceedings dated 29.05.2015. Thereafter, retirement benefits due to him were settled, i.e., Rs.1,69,840/- towards arrears of pay, Rs.1,69,840/- towards dearness allowance, Rs.11,000/- towards house rent allowance, totalling a sum of Rs.3,50,680/- on 01.06.2015, Rs.4,36,360/- towards DCRG on 08.09.2015, Rs.2,55,870/- towards commuted value of pension and Rs.63,566/- towards arrears of pension on 14.10.2015, which according to the petitioner were effected belatedly. Claiming interest, the petitioner submitted a representation dated 15.07.2015, which was kept pending, without any consideration.



6. This Court is of the view that when the charges levelled against the petitioner were dropped and the petitioner was relieved from the disciplinary proceedings, due to which he was allowed to retire from service on 30.04.2014, the date on which he attained the age of superannuation, he is entitled to receive all his retiral benefits from that onwards, whereas he received the same belatedly, for which, he is entitled to get interest, as 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. Therefore, the respondents have to consider the claim of the petitioner and pay interest at the applicable rate for the belated payment of retiral benefits to him.

7. At this juncture, it is relevant to quote the observation of the Supreme Court in *S.K. Dua v. State of Haryana and others* [MANU/SC/7048/2008 : 2008 (3) SCC 44], which reads 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."

Following the aforesaid decision, a Division Bench of this Court in *Government of Tamil Nadu v. Deivasigamani* [(2009) 3 MLJ 1], held that 'an employee is entitled to claim interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions or guidelines, under Part III of the Constitution of India relying on Articles 14, 19 and 21 of the Constitution of India'.

8. Thus, applying the aforesaid legal proposition, in the given facts and circumstances of the case, this Court has no hesitation to direct the respondents to consider the representation of the petitioner dated 15.07.2015 and pass appropriate orders, with respect to payment of interest for the belated payment of retirement benefits at the applicable rate as



per law, to the petitioner, 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 VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Environment and Forest Department,
Fort St. George,
Chennai - 600 009.

2. The Principal Chief Conservator of Forests,
Panagal Building, Saidapet,
Chennai - 600 015.

3. The Divisional Forest Officer,
Social Forestry Division,
Vellore - 9,
Vellore District.

+1cc to Mr.S.Mani, Advocate SR.No. 15628

+1 cc to Government Pleader Sr.No. 15415

+1 cc to Spl Government Pleader (Forest) Sr.No. 15719

W.P.No.40878 of 2016

SKY(CO)

B.VC(23.07.2021)