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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.21563 of 2014

Dr.M.E.Krishnakumar

... Petitioner

Vs

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Animal Husbandry,
Dairying and Fisheries Department,
Secretariat, Chennai - 600 009.
2. The Director of Animal Husbandry and
Veterinary Services,
Chennai - 600 006.

... Respondents

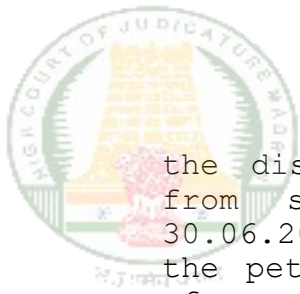
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to sanction and disburse compound interest forthwith at 18% per annum for the period from 05.07.2004 to 19.12.2013 for the delayed payment of Rs.2,63,868/- to the petitioner towards Surrender Earned Leave Salary of 240 days and concerned leave for 90 days.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.R.S.Selvam, GA

ORDER

The petitioner has come up with this Writ Petition seeking a direction to the first respondent to sanction and disburse interest at 18% per annum for the period from 05.07.2004 to 19.12.2013 for the delayed payment of Rs.2,63,868/- towards Surrender Earned Leave Salary of 240 days and concerned leave for 90 days.

2.It is the case of the petitioner that while he was serving as Joint Director of Animal Husbandry, Chennai, he was placed under suspension vide G.O.(3D) No.21, Animal Husbandry and Fisheries (AH1) Department, dated 28.06.2004. Due to pendency of



the disciplinary proceedings, he was not permitted to retire from service on reaching the age of superannuation on 30.06.2004. Since no charges were framed nearly after six years, the petitioner preferred WP.No.24764 of 2010 against the order of suspension passed by the first respondent and the said writ petition was dismissed by this Court on 22.03.2011. Challenging the same, the petitioner filed WA.No.939 of 2011, which was allowed on 04.07.2012. Pursuant to the same, the petitioner was permitted to retire from service by G.O.(2D) No.31, Animal Husbandry and Fisheries (AH1) Department, dated 12.04.2013. Thereafter, he was disbursed with surrender, earned leave and unearned leave encashment, however, belatedly. Hence, he has come up with this writ petition for the aforesaid relief.

3.Upon notice, the respondents filed a detailed counter affidavit inter alia stating that the payment of leave salary has been made to the petitioner after he was allowed to retire without prejudice to the criminal case pending against him and hence, there is no delay in this case. It is further stated therein that the payment of interest is allowed by the Government only for the delayed payment of Death-cum-Retirement Gratuity as per Rule 45-A of the Tamil Nadu Pension Rules, 1978 and hence, the petitioner cannot claim interest for the belated payment of surrender earned leave and unearned leave encashment.

4.Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that in an identical case in WP.No.3051 of 2014, this Court by order dated 03.02.2014, directed the respondents therein to grant interest for the belated payment of DCRG, commuted value of pension, etc., the relevant passage of which reads as under:

"3.Today, when the writ petition is taken up, learned counsel for the petitioner placed reliance on the judgment of the Division Bench of this Court reported in (2009) 3 MLJ 1 (Government of Tamil Nadu v. M. Deivasigamani), wherein, following the judgment of the Honourable Apex Court rendered in S.K. Due V. State of Haryana ((2008) 3 SCC 44), this Court, at paragraph Nos.6 & 7, held as hereunder:

"6.The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the Supreme Court in S.K. Due vs. State of Haryana (2008) 3 SCC 44. In the reported case, the appellant therein was served with three charge sheets / show cause notices in June 1998, few days before his retirement. However, he retired on 30.6.1998



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interest, under Part III of the Constitution, relying on Articles 14, 19 and 21 of the Constitution."

The learned counsel further submitted that, following the said judgments, this Court, in an identical matter, in W.P. No. 34853 of 2013, by order dated 20.12.2013, allowed the writ petition and directed the 1st respondent therein to grant interest for the belated payment of commuted value of pension, encashment of leave, GPF and SPF from the date of retirement of the petitioner therein till the date of payment.

4. Therefore, in the light of the dictum laid down by the Hon'ble Apex Court in S.K. Due vs. State of Haryana (2008) 3 SCC 44, referred supra, which has been followed by the Division Bench of this Court in Government of Tamil Nadu vs. M.Deivasigamani, (2009) 3 MLJ 1, I am of the considered opinion that the petitioner herein is entitled to payment of interest for the belated payment of gratuity and leave encashment.

5. Accordingly, the writ petition is disposed of directing the respondents herein to grant interest, as applicable, on the delayed payments of DCRG, commuted value of pension, Special PF amount and Provident Fund Subscription amount with effect from 01.05.2004 and encashment of leave on private affairs, encashment of earned leave and difference between subsistence allowance and monthly pension with effect from 01.02.2004, till the respective dates of actual disbursement of the said benefits to the petitioner herein, within a period of four weeks from the date of receipt of a copy of this order. No costs."

Hence, the learned counsel sought for similar order in this writ petition as well.

5. On the other hand, the learned Government Advocate appearing for the respondent fairly submitted that the respondents would consider the claim of the petitioner in the light of the order cited on the side of the petitioner.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the order as referred to above, this Court directs the respondents to consider the petitioner's representation dated 14.07.2014, if not already considered, and pass appropriate orders, in the light of the aforesaid order dated 03.02.2014 passed in WP.No.3051 of 2014, within a period of six weeks from the date of receipt of a copy of this order.



7. Accordingly, this writ petition stands disposed of. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Animal Husbandry,
Dairying and Fisheries Department,
Secretariat, Chennai - 600 009.
 2. The Director of Animal Husbandry and
Veterinary Services,
Chennai - 600 006.
- +1 cc to M/s.M.Ravi, Advocate Sr.No. 3960
+1 cc to The Government Pleader Sr.No. 3711

W.P.No.21563 of 2014

LN(CO)
RMP(15/04/2021)