

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.3177 of 2014

and

WMP.No.31546 of 2018

P.Subramanian

... Petitioner

Vs.

1. State of Tamil Nadu rep. by its
Secretary, Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.
2. The Director,
Municipal Administration,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Director,
Local Fund Audit,
Kuralagam, Chennai - 600 108.
4. The Commissioner,
Gobichettypalayam Municipality,
Gobichettypalayam Municipal Officer,
Erode District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the interest on Rs.6,06,608/- for the delayed period of DCRG amount on and from 30.06.2007 till 31.12.2013 and interest on Rs.2,16,756/- from 30.06.2007 to 17.11.2012 at the rate of 12% compoundable as per the G.O.Ms.No.122 (Finance) Pension, dated 20.12.1995 with 12% interest.

For Petitioner : Mr.A.R.Nixon

For Respondents: Mr.A.N.Thambidurai
Special Government Pleader

ORDER

This writ petition has been filed to direct the respondents to pay interest at 12% p.a. on the delayed payment of DCRG, as per G.O.Ms.No.122 (Finance) Pension, dated 20.12.1995.

2. Upon notice, the third respondent filed a counter affidavit, inter alia stating that on receipt of necessary pension proposal with the order of the fourth respondent, the third respondent has sanctioned and paid Rs.6,06,608/- as DCRG to the petitioner vide Ni.Mu.No.11113/Na.O.Sa(1)/2013 dated 22.10.2013 and that, the subject matter relates to payment of interest has to be dealt with by the fourth respondent and the third respondent is nothing to do with the same.

3. According to the learned counsel for the petitioner, the petitioner joined as Typist in the Local Administration Department on 14.12.1970 and he was due to retire from service on 30.06.2007. However, he was suspended from service on 08.06.2007. Thereafter, as per the order of this Court dated 28.06.2007 made in WP.No.21327 of 2007, the fourth respondent passed an order to sanction pension to the petitioner. Subsequently, the second respondent ordered to revoke the suspension and the provisional pension was sanctioned on 17.08.2011. Consequently, on 24.07.2012, the pension and arrears of Rs.2,16,756/- was paid and on 25.10.2013, the second respondent sanctioned full pension and paid arrears of DCRG at Rs.6,06,608/-. Since those amounts were paid belatedly, the petitioner filed this writ petition for the aforesaid relief.

4. Heard the learned Special Government Pleader appearing for the respondents, who submitted that as per the prevailing rules, the petitioner was paid the pensionary benefits due to him and there is no delay in disbursement of the same and hence, the question of interest does not arise herein.

5. 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, 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, this Court, considering the facts and circumstances of the case, is inclined to grant interest at 6%p.a. for the delayed payment of pension, DCRG etc. to the petitioner.

6. In such view of the matter, the respondent authorities are directed to pay interest at 6% p.a., on the delayed payment of pensionary benefits, if not already paid, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc
To

1. The Secretary,
Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.
2. The Director, Municipal Administration,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Director,
Local Fund Audit, Kuralagam, Chennai - 600 108.
4. The Commissioner,
Gobichettypalayam Municipality,
Gobichettypalayam Municipal Officer,
Erode District.

+1 cc to M/s.A.R.Nixon, Advocate Sr.No. 315
+1 cc to The Government Pleader, Sr.No. 524

W.P.No.3177 of 2014

RSI (CO)
RMP (18/02/2021)