

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.14501 OF 2014

P.Chellu

... Petitioner

Vs

1. The State of Tamilnadu Rep by its
Secretary to Government,
Social Welfare Department,
Fort.St.George,
Chennai-9.
2. The Director of Social Welfare Department,
Chepauk, Chennai-6.
3. The District Nutrition Project Officer,
O/o.The District Nutrition Project Officer,
Salem.
4. The Accountant General,
Accounts and Entitlements
O/o.The Principal Accountant General,
Teynampet,
Chennai - 600 018

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 to 3 to sanction of Interest for the belated payment of Family Pension Arrears of Rs.1,41,698/- for the period from 11.01.2010 to 31.07.2012, pension arrears of Rs.2,77,223/- for the period from 01.11.2000 to 10.01.2010 and for the amount of DCRG of Rs.46,744/- for the period from 01.11.2000 to 17.03.2013, at the rate of 12% within the stipulated time.

For Petitioner : Mr.V.Ravikumar

For Respondents : Mr.J.Ramesh
Additional Government Pleader

ORDER

According to the petitioner, her wife Spebi Thangam was initially appointed as a Bal Sevika under Honorarium Establishment on 22.07.1976. Thereafter, she was promoted as Community Nutrition Supervisor on 31.12.1991 and she retired from service on reaching the age of superannuation on 31.10.2000. From the date of retirement, there were many proposals sent by the third respondent requesting to sanction pension and other benefits. But, no amount was granted during her life time. Consequently, based on G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 and as per G.O.Ms.No.6 Social Welfare and Nutrition Department, dated 06.01.2010, the 50% of service rendered by the wife of the petitioner was taken into account as qualifying service for the purpose of pension. In the mean while, she died on 10.01.2010 due to ill health. After two years from the demise of the petitioner's wife, pensionary benefits were paid to the petitioner. Hence, claiming interest for the belated payment of family pension arrears of Rs.1,41,698/- for the period from 11.01.2010 to 31.07.2012, pension arrears of Rs.2,77,223/- for the period from 01.11.2000 to 10.01.2010 and DCRG of Rs.46,744/- for the period from 01.11.2000 to 17.03.2013, he submitted a representation dated 05.08.2013 to the respondents. Finding no response on the same, the petitioner has come up with this writ petition seeking appropriate direction to the respondents in this regard.

2. Heard both sides and perused the materials placed before this Court.

3. It is not in dispute that the petitioner's wife retired from service on 31.10.2000 and she died on 10.01.2010. According to the third respondent, she rendered more than 16 years and 6 months as qualifying service for the purpose of pension. Though necessary proposal was duly forwarded, pensionary benefits, gratuity and other benefits were sanctioned to the petitioner belatedly.

4. It is settled law 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 respondents are liable to pay 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."

5. Applying the aforesaid ratio decidendi to the facts of the present case, this Court is of the opinion that the petitioner is entitled to some interest for the belated payment of pension and other benefits due to her wife.

6. In such view of the matter, the respondents are directed to consider the petitioner's representation dated 05.08.2013 and pay interest at the appropriate rate for the delayed period, within a period of eight weeks from the date of receipt of a copy of this order.

7. This writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Secretary to Government,
State of Tamilnadu
Social Welfare Department,
Fort.St.George, Chennai-9.
2. The Director of Social Welfare Department,
Chepauk, Chennai-6.
3. The District Nutrition Project Officer,
O/o.The District Nutrition Project Officer,
Salem.

4. The Accountant General,
Accounts and Entitlements
O/o.The Principal Accountant General,
Teynampet, Chennai - 600 018.

+1cc to Mr.V.Ravikumar, Advocate, S.R.No.2210

+1cc to the Government Pleader, S.R.No.2745

W.P.No.14501 of 2014

PCH(CO)
CS/23/06/2021



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