



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.3946 of 2014

1.M.Mary Kamalam (deceased)

2.Theodrelawrance

3.Remyfrancis

4.Shanthi

5.Suguna

6.Peter Karunakaran

(Petitioners 2 to 6 are impleaded as per
the order of this Court dated 21.01.2021
in WMP.No.39999 of 2018)

... Petitioners

Vs

1. The Accountant General (A & E),
Teynampet, Chennai.

2. The District Treasury Officer,
Thanjavur,
Thanjavur District.

3. The Commissioner,
Panchyat Union,
Thiruvidaimaruthur,
Thanjavur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay interest at the rate of 18% per annum for the belated payment of family pension made to the petitioner in a sum of Rs.5,63,811/- on 10.09.2012 which was actually due and payable to the petitioner from the date of death of the petitioner's husband i.e. for the period from 13.04.1995 ending 09.09.2012.

For Petitioners: Mr.C.Johnson

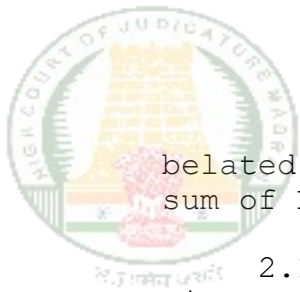
For R1 : Mr.V.Murali

For R2 : Mr.A.N.Thambidurai, Spl.GP

For R3 : Mrs.T.S.Selvarani

ORDER

The relief sought in this Writ Petition is to direct the respondents to pay interest at the rate of 18% per annum for the



belated payment of family pension made to the petitioners in a sum of Rs.5,63,811/- on 10.09.2012.

2.It is the case of the first petitioner that her husband viz., Mathew Regao was working as Road Inspector Grade II in the office of the third respondent from 10.02.1968 and he died on 12.04.1995. However, the first respondent settled the entire benefits on the death of her husband, to the first petitioner only on 10.09.2012, vide cheque for a sum of Rs.5,63,811/-. Hence, claiming interest for the belated payment of family pension and other benefits, the first petitioner submitted representations dated 07.09.2013 and 11.09.2013 to the respondents. Finding no response on the same, she has come up with this writ petition for the aforesaid relief.

3.The first respondent filed a counter affidavit, inter alia stating that this respondent scrutinised the proposal sent by the Divisional Engineer (H&RW), Thanjavur under whose control the husband of the first petitioner was serving and it was found that the age of the legal heirs with that of the deceased was contradictory and hence, returned the proposal for death benefits for want of correct information; the Divisional Engineer(H&RW), Thanjavur, again forwarded the revised family pension proposal on 09.12.1997, along with documentary proof, after correcting the discrepancies, however, in view of the contradiction as regards the age of the son and father, there was a doubt whether the children specified in the legal heir certificate dated 10.02.2011 were born to the first petitioner through first husband other than the deceased Government servant and if the deceased happens to be the second husband of the first petitioner, she is not entitled for family pension and hence, this respondent by letter dated 26.03.1998, returned the said proposal to the Divisional Engineer (H&RW), Thanjavur with instruction to resubmit the same along with clarification from the first petitioner. It is further stated therein that there was no clarification or communication received by this respondent either from the department or from the petitioner during 4/1998 to 9/2011 and only after receipt of the clarification from the Divisional Engineer (H),C&M, Thanjavur, on 10.10.2011, upon obtaining explanation from the first petitioner and a fresh legal heir certificate based on the birth certificate issued by the Church authorities, this respondent authorised the death benefits to the legal heirs equally and family pension in favour of the first petitioner on 29.03.2012 and therefore, the delay in disbursement of the same is due to furnishing of incorrect information / documents by the petitioner regarding the age and the same is neither wilful nor wanton on the part of this respondent.

4.Heard the submissions made by all the parties and perused the materials brought on record.



5. Admittedly, the petitioners are the legal heirs of the deceased Mathew Regao, who died on 12.04.1995, while he was in service and are entitled for all the death benefits due to them. It is also not in dispute that the death benefits and family pension were disbursed to the petitioners on 29.03.2012 and in this process, there was a delay of 17 years occurred.

6. In the counter affidavit filed by the first respondent, it is categorically averred that there was no clarification / communication received by this respondent either from the department where the deceased was serving or from the petitioners, during the period from April 1998 to September 2011. It is further stated therein that the first respondent is vested with the authority to authorising payment of pensionary benefits in respect of the retired / deceased employees of the Government, in accordance with the provisions of the Tamil Nadu Pension Rules and the Government Orders issued from time to time; and as per the Government Letter No.103354/Pension/87-2 dated 07.09.1987, no authorisation from this respondent is necessary, if the interest for belated payment is allowed by this Court and the same can be paid by the Head of Office on obtaining necessary sanction order from the Department concerned.

7. At this juncture, it is to be noted that there is no material produced on the side of the respondents to show that the delay occurred only due to the fault on the part of the petitioners. Therefore, the respondents ought to have compensated the petitioners for the delay in disbursement of the death benefits due to them, by way of interest, as it is settled law that the pension is a valuable right of the Government servant and the same cannot be considered as a bounty to be handed out by the respondents at their whims.

8. 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."

9. Applying the aforesaid legal principle to the facts of the present case, this Court deems it fit to issue a direction to the respondents in favour of the petitioners herein. Accordingly, this writ petition stands disposed of, directing the respondents to pass appropriate orders on the first petitioner's representation dated 11.09.2013 with respect to interest for belated payment of death benefits, at applicable rate, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Av

To

1. The Accountant General (A & E),
Teynampet, Chennai.
2. The District Treasury Officer,
Thanjavur,
Thanjavur District.
3. The Commissioner,
Panchyat Union,
Thiruvidadaimaruthur,
Thanjavur District.

+1cc to Mr.C.Johnson, Advocate, S.R.No. 3998
+1cc to the Government Pleader, S.R.No. 3556

W.P.No.3946 of 2014

BR (CO)
GN(13/07/2021)