



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.232 of 2011

R.Mythili

... Appellant/Petitioner

Vs.

1.The Assistant Elementary Educational Officer,
Office of the Elementary Education,
North Raja Street,
Pudukkottai,
Pudukkottai District.

2.The Commissioner,
Pudukkottai Municipality,
Pudukkottai,
Pudukkottai District.

3.The District Collector,
Pudukkottai District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 24.11.2010 made in W.P(MD)No.6822 of 2006 on the file of this Court.

Prayer in WP(MD). 6822/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to disburse the PF amount due to the petitioner with interest at 12% per annum from 31/10/2001 namely the date of her retirement on which date the said amount has become payable to her with costs in the facts and circumstances of the above case.

For Appellant : Mr.R.Sundar Srinivasan

For RR 1 & 3 : Mrs.S.Srimathy
Special Government Pleader

For R - 2 : No appearance



JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order, dated 24.11.2010 passed in W.P(MD)No.6822 of 2006.

2.The said Writ Petition itself was filed by the appellant/writ petitioner, for disbursement of the Provident Fund with interest at the rate of 12% per annum for the delayed payment by the respondents.

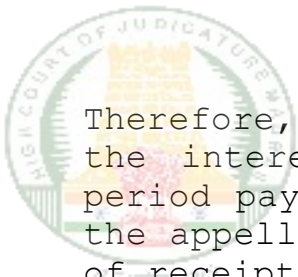
3.Admittedly, the amount was disbursed only on 17.08.2006, whereas, the appellant had retired from service on 31.10.2001. The Provident Fund amount is Rs.1,02,354/-. Even presuming that the interest, as claimed at 12%, is paid, it is only Rs.12,282/- per annum and there is a delay for more than 5 years. The appellant had sought payment for the medical treatment to the appellant's daughter. Though the said amount should have been disbursed in the year 2001, it was disbursed only in the year 2006, after the Writ Petition was filed, however, without interest. When the date of superannuation of the appellant is already known to the Government, the Government is obliged to initiate steps for disbursing the retiral benefits atleast two years prior to the date of retirement.

4.In this case, not only it was a delayed payment, but despite the request and the emergency expressed, it was granted only after five years. The Provident Fund is not a bounty, but it is only a right of the Government servant and the Government is obliged to follow the Rules.

5.The learned Single Judge while disposing of the Writ Petition had recorded that only the payment of the Provident Fund without adverting to the fact that the same was claimed with interest. The appellant cannot be directed to resort to a separate proceeding for this purpose, as the appellant had already retired. Therefore, it would be appropriate to direct the respondents to pay the interest for which there was a delay in payment.

6.The learned Special Government Pleader appearing for the respondents 1 and 2 would contend that the claim of 12% interest cannot be permitted.

7.When the claim itself was made with the interest to avail the same, the Government should have come forward to offer atleast some percentage of interest. The appellant cannot be driven to a different forum for the purpose of getting the interest.



Therefore, we are of the view that the appellant is entitled for the interest. Accordingly, the interest amount for the delayed period payable on the Provident Fund that is already disbursed to the appellant be paid within a period of eight weeks from the date of receipt of a copy of this order.

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8. With the above observation, the Writ Appeal is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Assistant Elementary Educational Officer,
Office of the Elementary Education,
North Raja Street, Pudukkottai,
Pudukkottai District.

2. The Commissioner,
Pudukkottai Municipality,
Pudukkottai, Pudukkottai District.

3. The District Collector,
Pudukkottai District.

+1 CC to Mr. R. SUNDAR SRINIVASAN, Advocate (SR-5777[F] dated 17/02/2021)

+1 CC to SPL GP (SR-5883[F] dated 18/02/2021)

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17.02.2021

KM (26.02.2021) 3P 6C

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