



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1531 of 2021

and

C.M.P. (MD)No.6298 of 2021

1.The Director of School Education,
College Road,
Chennai-600 006.

2.The District Educational Officer,
Tiruchendur,
Thoothukudi District-628215.

... Appellants / 1st & 2nd Respondents

Vs.

1.S.Peter Raj

... Respondent No.1 / Writ Petitioner

2.The Manager of R.C.Schools,
Bishop's House,
Thoothukudi-628 001.

3.The Correspondent,
St.Mary's Higher Secondary School,
Pothakalanvilai,
Thoothukudi District-628 702.

... Respondents 2 and 3 / 3rd & 4th Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD)No.3576 of 2021, dated 24.02.2021, on the file of this Court.

Prayer in WP(MD).3576/2021:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, writ or direction in the nature of a writ calling for the records relating to the proceedings of the impugned order in Na.Ka.No.2113/A3/2019 dated 09.09.2019 on the file of the 2nd respondent and to quash the same and to direct the 2nd respondent to release the amount of Rs.2,60,603/- for the delayed payment of the Provident Fund with 9 Percent interest till the date of disbursement and to released the Special Provident Fund with 9% interest till the date of disbursement.



For Appellant : Mr.B.Saravanan
Government Advocate
For Respondents : Mr.G.Prabhu Rajadurai
for Mr.I.Robert Chandrakumar for R.1

JUDGMENT

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(Judgment of this Court was made by **M.DURAISWAMY, J.**)

Challenging the order passed in W.P.(MD)No.3576 of 2021, the respondents 1 and 2 in the writ petition have filed the above writ appeal.

2.It is the case of the first respondent/writ petitioner that the appellants had belatedly disbursed the provident fund amount due to him and therefore, he seeks for interest on the belated payment.

3.After taking into consideration the submissions made by the learned Counsel for the writ petitioner and the learned Government Advocate appearing for the appellants, the learned Single Judge directed the appellants to pay interest to the writ petitioner at the rate of 6% per annum on the belated payment of provident fund, commencing from the date of retirement, till the date of actual disbursement. The writ petitioner sought for release of the amount of Rs.2,60,603/-, which according to him is the interest calculated by the appellants on the belated payment. It was also brought to the notice of the learned Single Judge that the special provident fund amount was not released by the official respondents.

4.The Honourable Supreme Court of India, in the case of **Vijay L.Mahrotra Vs. State of Utter Pradesh** reported in **(2001)9 SCC 687**, held that when the retirement benefits are not paid on the date of retirement or soon after, the retiree would be entitled for interest on the belated payment. That apart, this Court, in the judgment made in W.A.(MD)Nos.1349 and 1350 of 2021, dated, 12.07.2021, held that the retiree is entitled to 6% interest for the period of delay. The relevant portion of the judgment reads as follows:

*"5.So far as the Provident Fund and Earned Leave Salary are concerned, the learned Single Bench has denied the same on the ground of pandemic. This, in our considered view, is untenable because, the Provident Fund and Earned Leave Salary have also been held to be retirement benefits and any delay in settling the same would attract interest payable for the delay. The decision of the Hon'ble Supreme Court in **S.K.Dua Vs. State of Haryana and another in Civil Appeal No.184 of 2008 dated 09.01.2008**, will come to the aid and assistance of the appellants. Therefore, we are of the clear view that the delay in payment of Provident Fund and Earned Leave Salary also to be compensated by payment of interest, which we fix at*



6% p.a. It is submitted before us that insofar as appellant Rajendran, the retirement benefits were settled 21 months after he retired and insofar as Gnanasekaran, it was settled after 19 months he retired from service.

6.In the light of the above, these Writ Appeals are allowed and that portion of the impugned orders declining grant of interest on belated payment of Provident Fund and Earned Leave Salary is set aside and the respondent Corporation is directed to pay interest at the rate of 6% p.a. for the period of delay. This direction be complied with within a period of six [6] weeks from the date of receipt of a copy this judgment. However, there shall be no order as to costs."

5.The Division Bench also took into consideration the decision of the Honourable Supreme Court made in **Civil Appeal No.184 of 2008, dated 09.01.2008 in S.K.Dua Vs. State of Haryana and another** and directed the authorities to pay 6% interest for the period of delay. The appellants have not produced any contra judgment in support of their case.

6.In such view of the matter, following the ratio laid down by the Honourable Supreme Court and the judgment of the Division Bench of this Court made in W.A.(MD)No.1349 and 1350 of 2021 cited supra, we do not find any reason to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

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RS (16.08.2021) 4P 3C