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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.11204 of 2014

and

M.P. (MD)No.2 of 2014

S.Palaniyappan

... Petitioner

vs.

1.The Agricultural Production Commissioner and
Secretary to Government,
Fort St.George,
Chennai - 600 009.

2.The District Collector,
Thanjavur District,
Thanjavur.

3.The Revenue Divisional Officer,
Pattukottai Taluk,
Thanjavur District.

4.The Tahsildar,
Pattukottai,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order made in Na.Ka.No.11565/10/A4, dated November 2013, passed by the fourth respondent and quash the same and consequently, to direct the respondents to pay interest for the belated disbursement of terminal benefits by considering the representation of the petitioner, dated 27.01.2014, in accordance with law within a time stipulated by this Court.

For Petitioner :Mr.Pala Ramasamy
For Respondents :Mr.M.Linga Durai
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the fourth respondent, dated November 2013, and consequently to direct the respondents to pay interest for the belated payment of terminal



benefits by considering the representation of the petitioner, dated 27.01.2014.

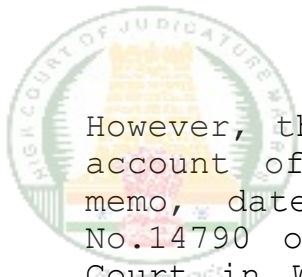
2. Heard Mr. Pala Ramasamy, learned Counsel appearing for the petitioner and Mr. M. Linga Durai, learned Government Advocate appearing for the respondents.

3. The question arise before this Court is whether the petitioner, who is retired as Village Administrative Officer, is entitled to interest for the belated payment of terminal benefits. The petitioner was appointed as Village Administrative Officer and he discharged his duty, as such from 11.08.1982. The petitioner was served with a charge memo, dated 21.06.2010, for certain irregularities. Based on the pendency of the disciplinary proceeding, the petitioner was not permitted to retire from service. The petitioner was also placed under suspension by order, dated 30.06.2010, by the third respondent. Challenging the charge memo and the order refusing to permit the petitioner to retire from service, the petitioner preferred a Writ Petition in W.P.(MD) No.14790 of 2010 before this Court and this Court by order, dated 21.11.2011, allowed the Writ Petition and quashed the charge memo on the ground of delay.

4. Thereafter, the petitioner gave a representation, dated 21.01.2012, to drop the charge memo, dated 30.06.2010 and to revoke the order of suspension, dated 30.06.2010 and to allow him to retire from service with effect from 30.06.2010. Since no action has been taken, the petitioner preferred another Writ Petition in W.P.(MD) No.15624 of 2012 and this Court directed the respondents to consider and dispose of the petitioner's representation on merits and in accordance with law within a period of three months from the date of order (ie., 06.07.2012).

5. Thereafter, the order of suspension was revoked and the petitioner was permitted to retire from service from the date of superannuation, ie. 30.06.2010. In the order of the third respondent, the fourth respondent was directed to take effective steps to disburse the petitioner's retirement and terminal benefits. It is admitted by the petitioner that he was paid gratuity, earned leave and pension. The grievance of the petitioner is that the petitioner though entitled to interest for the belated payment of terminal benefits, the respondents have not disbursed the retirement benefits with interest. Hence, the present Writ Petition is filed with the above prayer.

6. The Payment of Gratuity Act, 1972, specifically contemplates payment of interest for the belated payment of gratuity. Since the charge memo has been quashed by this Court, the petitioner is entitled to gratuity in full along with interest. It is admitted before this Court that the petitioner was to retire on 30.06.2010.



However, the petitioner was not permitted to retire from service on account of the pendency of disciplinary proceeding. The charge memo, dated 21.06.2010, was quashed by this Court in W.P.(MD) No.14790 of 2010 on 21.11.2011. After the order passed by this Court in W.P.(MD)No.14790 of 2010, the petitioner is entitled to receive the terminal benefits. However, there is a considerable delay in disbursement of terminal benefits.

7.The question whether the employees are entitled to interest for the belated payment of retirement benefits has been answered in favour of the employees in several judgments. The learned Counsel for the petitioner relied upon a judgment of Honourable Division Bench of this Court in the case of **G.Kalyanam vs the Principal Secretary to Government and others**, dated 20.06.2017. In a similar case, where, the appellant therein, who attained the age of superannuation, was not permitted to retire and retain in service, as charge memo was pending against him. Though the appellant therein was permitted to retire from service with effect from 31.03.2009, in that case, the charges were dropped. The Honourable Division Bench of this Court held that the appellant therein is entitled to interest after three months from the date of retirement as per the Rules.

8.The entitlement of the petitioner to get retirement benefits is not in dispute. However, when the petitioner is deprived of payment, his right is affected and hence, the only remedy available is to direct the respondents to pay interest for the delay in payment. This principle is generally followed by this Court in several cases, as a matter of policy *de hors* any rules.

9.As far as gratuity is concerned, there is a specific rule for payment of interest and the respondents are liable to pay interest, whenever there is unexplained delay in disbursement of pension. Even assuming that on account of pendency of disciplinary proceedings, when the employee is exonerated from the charges, the establishment cannot contend that there is no delay on their part. This issue has been answered by the Honourable Division Bench of this Court in the judgment above referred to. Though the Writ Petition is for quashing the impugned order, dated November 2013, declaring the entitlement of the petitioner under various heads, the said order is challenged only for the limited purpose.

10.Since the issue is covered by the judgment of Honourable Division Bench of this Court, this Court is of the view that it is a fit case to order interest. Accordingly, this Writ Petition is allowed and the impugned order passed by the fourth respondent, dated November 2013, is quashed. The respondents are directed to pay the interest at the rate of 6% for the belated payment of retirement benefits by considering the representation of the petitioner, dated 27.01.2014 in accordance with law within a period



of three months from the date of receipt of a copy of this order.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

1.The Agricultural Production Commissioner and
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3.The Revenue Divisional Officer,
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Thanjavur District.

4.The Tahsildar,
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+1 CC to M/s.SPL. GP (SR-29593[F] dated 20/09/2021)

W.P. (MD) No.11204 of 2014
16.09.2021

SR(CO)
KB(24.09.2021) 4P 6C