IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.5466 of 2022

Manoharan ... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Commissioner (Administration),
Office of the Principal Secretary & Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.

2.Joint Commissioner of Commercial Taxes,
Dr.Balasundaram Road, Coimbatore - 18.

3.Office of the Assistant
Commissioner (Ct)-Commercial Taxes,
Singanallur Circle, Dr.Balasundaram Road,
Coimbatore - 18. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents to pay interest for belated payment of amounts due to the writ petitioner towards retirement benefits of Commuted Pension, Amount and Pension Arrears from 28.02.2014 being the date of retirement, till payment.

For petitioner : Mr.R.Gunasekaran

For Respondents: Mr.M.Venkateswaran
Special Government Pleader

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking to issue a Writ of Mandamus directing respondents to pay interest for belated payment of retirement benefits.

3. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

4. The writ petitioner is a retired Manager/Commercial Tax Officer of the Sales Tax Appellate Tribunal, Coimbatore. While he was in service, a disciplinary action was initiated against him and a charge memo was issued, due to certain alleged lapses, under Rule 17(b) of the TNCS (D&A) Rules. An enquiry officer was appointed and he took six years to complete the enquiry. Thereafter, he submitted a report and then charges were dropped by order dated 24.05.2018. Even while the charges were pending, the petitioner was allowed to retire from service on superannuation on 28.02.2014. According to the petitioner, the retirements benefits and pension arrears were paid belatedly, without any interest. Hence he filed this writ petition.

5. The learned counsel appearing for the petitioner submitted that there is delay on the part of the respondents in settling the retirement benefits and also the arrears of pension and hence, the petitioner is entitled for getting interest as per the Rules. He further submitted that the petitioner has made several representations to pay interest, however, it was not considered.

6. The learned Special Government Pleader submitted that the respondents have initiated the departmental proceedings against petitioner and final order was passed and charges were dropped on 24.05.2018. Therefore, the petitioner is not entitled for getting interest during the period of pendency of disciplinary proceedings. However, while considering the representations of the petitioner, that aspect would be taken into account by the authorities concerned and then, appropriate orders will be passed in accordance with law.

7. It is the case of the petitioner that the he is entitled for interest for the belated payment of retirement benefits and arrears of pension, as per the rules. But when the departmental proceedings is pending against the petitioner, that period has to be taken into account, while considering the claim of interest. Therefore, if really there is a delay on the part of the respondents for settling the retirement benefits, certainly, the petitioner is entitled for getting interest, as per Rules. Further, the petitioner has made several representations to the respondents to pay interest for the belated payments.

Therefore, this court is inclined to pass the following orders.

i) The respondents are directed to consider the representation of the petitioner dated 29.03.2021 and pass orders on its own merits, in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of at the admission stage itself. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ata/mst

To

1.Additional Commissioner (Administration),
Office of the Principal Secretary &
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.Joint Commissioner of Commercial Taxes,
Dr.Balasundaram Road, Coimbatore - 18.

3.The Assistant Commissioner (Ct)-Commercial Taxes,
Singanallur Circle, Dr.Balasundaram Road,
Coimbatore - 18.

+2cc to M/s.R.Gunasekaran, Advocate, S.R.No.16125
+1cc to the Special Government Pleader, S.R.No.16772

W.P.No.5466 of 2022

SJ(CO)
SB(23/03/2022)