IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.9092 of 2017

Masa Abdul Haq .. Petitioner

vs.

1The Regional Joint Director of Collegiate Education,
Vellore Region,
Vellore 632 006,
Vellore District.

2.Islamia College,
Represented by the Secretary,
Islamiah College,
Vaniyambadi 635 752. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to pass appropriate orders to pay to the petitioner, 1) the salary for two months, that is, April 2011, May 2011 salary, 2) the sum of Rs.92,435/- unauthorisedly deducted from the petitioner's DCRG, 3) 18% Compound

Interest in respect of for the delayed payment of Rs.9,07,565/- (DCRG), Rs.9,10,834/- (Commuted Value Pension), Rs.7,27,304/- (Earned Leave Encashment) Rs.1,45,461/- (Leave on Private Affairs Encashment) and Rs.28,896/- (Special Provident Fund) from 31.05.2011 to the actual date of payment, that is, 21.09.2013, 31.08.2013, 03.09.2014, 11.04.2014 and 04.04.2014 respectively and 4) Compound Interest for the delayed payment of monthly pension as shown at Para 20, TABLE-IV, based on the petitioner's representations, latest one being, dated 28.10.2016.

For Petitioner	:	Mr.S.Sathia Chandran
For Respondent-1	:	Mr.C.Jaya Prakash, Government Advocate.
For Respondent-2	:	Mr.N.A.Nissar Ahmed

O R D E R

The relief sought for in the present writ petition is to direct the respondents to pass appropriate orders to pay to the petitioner, 1) the salary for two months, that is, April 2011, May 2011 salary, 2) the sum of Rs.92,435/- unauthorisedly deducted from the petitioner's DCRG, 3) 18% Compound Interest in respect of for the delayed payment of Rs.9,07,565/- (DCRG), Rs.9,10,834/- (Commuted Value Pension), Rs.7,27,304/- (Earned Leave Encashment) Rs.1,45,461/- (Leave on Private Affairs Encashment) and Rs.28,896/- (Special Provident Fund) from 31.05.2011 to the actual date of payment, that is, 21.09.2013, 31.08.2013, 03.09.2014, 11.04.2014 and 04.04.2014 respectively and 4) Compound Interest for the delayed payment of monthly pension as shown at Para 20, TABLE-IV, based on the petitioner's representations, latest one being, dated 28.10.2016.

2. The petitioner joined as Assistant Professor of Commerce in the second respondent-College and retired from service on 31.03.2011 on attaining the age of superannuation.

3. The grievance of the writ petitioner is that there was enormous delay in settling the terminal and pensionary benefits and the delay is about 2-1/2 years.

4. The learned counsel appearing on behalf of the second respondent-College made a submission that the delay occurred at the instance of the writ petitioner and more-so the writ petitioner retired from service in the year 2011 and all his pensionary benefits are settled during the

years 2013 and 2014 and now after this length of time, he filed the present writ petition. Therefore, the writ petition is liable to be rejected on the ground of laches.

5. The second respondent-College filed counter-affidavit stating that the petitioner submitted the proposal one year after his retirement i.e., on 14.04.2012 and thereafter on 25.04.2012, the second respondent-College Management forwarded the same to the Authorities. Accordingly, the amount has been settled. The second respondent-College in paragraphs-7 and 8 of its counter-affidavit, wherein it has been observed as under:-

> *"7. I humbly submit that the petitioner sought for deputation to undergo M.Phil Course during 1993-94 for one year with undertaking and on condition that he would complete the Course within the stipulated period and would refund the amount received by him as salary for the said period in case of breach of any of the conditions. The petitioner failed to complete the Course within the stipulated period and therefore*

the first respondent vide proceedings dated 02.08.2013 deducted a sum of Rs.92,435/-, which is as per rules and undertaking given by the petitioner. This respondent has no role in the said deduction of a sum of Rs.92,435/-. Suppressing the above fact the petitioner has filed claiming the said amount and seeking interest and particularly without challenging the order of the first respondent dated 02.08.2013 ordering deduction.

8. It is submitted that the petitioner attained superannuation on 31.03.2011. This Hon'ble Court in WP No.6256 of 2010 by order dated 20.09.2011 directed this respondent to forward the proposal for payment of pension benefits upto 31.03.2011 and to approach the first respondent to reconsider the claim for monetary benefit upto 31.05.2011. On 14.11.2011 as per the petitioner did not submit the required documents to process the pension papers this respondent issued a registered letter dated 14.11.2011 calling upon the petitioner to submit documents to process his pension papers. The petitioner submitted the application and other documents on 14.04.2012. Immediately the same was processed and *forwarded to the first respondent on 25.04.2012 by hand delivery and the first respondent acknowledged the same. The Accountant General after approval of the pension pay order would forward the copy of the order to the District Treasury, Vellore and one copy to the individual/pensioner. The pensioner/ former employee has to forward the copy of the pension pay order approval to the Institution. Only on such receipt from the retired employee the Institution could verify and process the issuance of "No Due Certificate" to the Joint Director the first respondent herein. The petitioner wantonly and deliberately did not enclose and forward the copy of the pension pay order approval issued by the Accountant General. The Institution with very great difficulty obtained the pension pay order particulars from the Sub Treasury Vaniyambadi and immediately issued NOC to the first respondent vide its proceedings dated 29.07.2013 on which basis the pension pay order and commutation came to be disbursed to the petitioner on 31.08.2013. In fact the pension pay order was approved by the Accountant General* *vide his proceedings dated 28.09.2012 vide PPO No.R.2306691. This proceedings could be traced out by the Institution from the District Treasury, Vellore with very great difficulty and the same was processed and NOC was issued on 29.07.2013. This deliberate and wanton lapse on the petitioner has been suppressed to harass the Institution."*

6. Thus there was no delay on the part of the second respondent-College Management and the petitioner disputed certain payments and on account of such disputes, the proposal was submitted belatedly. Therefore, the petitioner is not eligible for interest on the belated settlement of pensionary benefits.

7. Considering the facts and circumstances, this Court is of the considered opinion that all the eligible benefits are already settled in favour of the petitioner during the years 2013 and 2014. In respect of certain deductions made by the first respondent, the dispute aroused and there was a delay in submitting the proposal by the petitioner, which caused

consequential delay in settling the terminal benefits. Therefore, the respondents cannot be blamed for the belated settlement of pensionary benefits.

8. That apart, the petitioner retired from service in the year 2011 and proposals were submitted in the year 2012 and the benefits were settled during the years 2013 and 2014 and the writ petitioner filed the present writ petition after the lapse of more than three years from the date of settlement of pensionary benefits.

9. This being the factum, this Court is not inclined to consider the relief as such sought for in the present writ petition.

10. The learned counsel for the petitioner brought to the notice of this Court that two months salary of the petitioner is yet to be paid and the same is to be calculated and is directed to be paid, within a period of four weeks from the date of receipt of a copy of this order.

11. The respondents have to complete the formalities for the purpose of settlement of two months salary to the petitioner.

12. With the abovesaid observations, the writ petition stands disposed of. However, there shall be no order as to costs.

22-11-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

The Regional Joint Director of Collegiate Education,
Vellore Region,
Vellore 632 006,
Vellore District.

S.M.SUBRAMANIAM, J.

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WP 9092 of 2017

22-11-2022