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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No. 31898 of 2019

S.Vijayan

...Petitioner

-vs-

1. Union of India,
rep. by its Director General Posts,
Dak Bhawan, Samsad Marg,
New Delhi- 110 011.
2. The Principal Chief Postmaster General,
Tamilnadu Circle,
Anna Road, Chennai-600002.
3. The Director,
Postal Services,
Western Region,
Tamilnadu,
Coimbatore 641 002.
4. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Madras-600 104.

...Respondents

Prayer:Writ Petition filed under Article 226 of constitution of India seeking for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by Central Administrative Tribunal, Madras Bench in O.A.No.530 of 2019 dated 11.04.2019 confirming the rejection order issued by the 3rd respondent in his Memo No.LC/11025/OA 1198/2017 dated 16.04.2018 and quash the same in so far as rejection of interest in belated payment, and direct the respondents to grant interest to the Petitioner and other consequential benefits.

For Petitioner : Mr.C.Selvaraju
Senior Counsel
for Mr.P.Ganesan

For Respondents : Mr.Srinivasamoorthy (R1)



O R D E R

S.VAIDYANATHAN., J
and
N.MALA., J

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This Writ Petition has been filed challenging the order passed by Central Administrative Tribunal, Madras Bench in O.A.No.530 of 2019 dated 11.04.2019 confirming the rejection order issued by the 3rd respondent in his Memo No.LC/11025/OA 1198/2017 dated 16.04.2018 and quash the same in so far as rejection of interest in belated payment, and direct the respondents to grant interest to the Petitioner and other consequential benefits.

2.The Writ Petitioner, who worked as Senior Postmaster, attained the age of Superannuation on 31.07.2012. As he was deprived of interest for belated payment of gratuity, he approached the Central Administrative Tribunal in O.A.No.530 of 2019 on the ground that he should not be deprived of interest for belated payment, which ought to have been paid as per Central Civil Services (Pension) Rules, 1972.

3. The Tribunal after hearing the parties vide order dated 11.04.2019 has passed the following order:

"7.I have considered the submissions and perused the pleadings of the applicant. From Annexure-A/3 order of the Tribunal in O.A.No.514/2013 dated 05.10.2015, it is clear that the applicant, in-addition to seeking the quashment of charge memo dated 10.04.2006, had also sought a direction to the respondents to settle all the terminal benefits, such as, Death cum retirement gratuity, pension and other permissible terminal benefits with interest @ 18%. However, the relief granted by the Tribunal was confined only to the quashment of charge memo dated 10.04.2006 and memo dated 17.7.2012. As the relief sought for interest on consequential payments had not been granted by the Tribunal in the previous OA, the applicant could not be allowed to seek the same relief in this O.A. If the applicant was not satisfied with the extent of relief granted by the tribunal in the said OA, he should have exercised an appropriate legal remedy at the relevant time.

8.The respondents appear to have passed orders as per the provisions of Rule 68 and the Government of India decision taken thereunder. It is not in dispute that the appellant was not exonerated of the charges but the proceedings were quashed for non-adherence to time limit by the respondents. However, the consequential relief of interest on



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delayed payment was not granted by the Tribunal, keeping in view the totality of the circumstances. Therefore, the respondents could not be faulted for complying with the order and releasing the consequential benefits within the scope of the order."

4. Being aggrieved over the same, the present Writ Petition has been filed.

5. The learned counsel appearing for the Petitioner submitted that the impugned order has been passed without properly considering the rule relating to payment of interest. He further submitted that the Department proceedings ended in favour of the petitioner and dropped by the Department and once the delay is not attributable on the delinquent, the ultimate dropping of charges would amount to exoneration and the employee is entitled for interest on terminal benefits and hence prays to quash the impugned order.

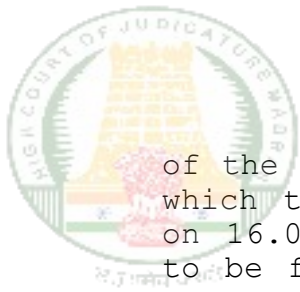
6. The learned counsel appearing for the First Respondent submitted that, the petitioner has attained the age of Superannuation on 31.07.2012 and thereafter filed O.A.No.514 of 2013 before the Tribunal, wherein he has sought for following prayer:

"(a) call for the records pertaining to the charge memo issued by the 3rd respondent in his Memo STB/14010-6/EDE/2006 dated 10.04.2006 and quash:

(b) Call for the records pertaining to the order passed by the 2nd respondent in his Memo No.STC/1-145/2011 dated 17.7.2012 and quash the same, in so far as the condition that "subject to pending finalization of disciplinary case issued by the 3rd respondent vide Memo No.STB/14010-6/Ede/2006 dated 10.4.2006."

(c) direct the respondents to settle all the terminal benefits such as Death cum Retirement Gratuity, Pension and other permissible terminal benefits with interest @ 18% per annum."

7. The said O.A. was allowed by quashing the Charge Memos dated 10.04.2006 and 17.07.2012 and no further direction was given by the Tribunal with respect to the interest for belated payment and hence the respondents could not be faulted with and the Petitioner without challenging the aforesaid order, made a representation to the respondents on 27.07.2016, seeking to pay interest for the belated payment of terminal benefits and thereafter filed O.A.No.1198 of 2017 directing the Respondents to pass orders on the aforesaid representation and the Tribunal vide order dated 26.07.2017 directed the respondents to dispose



of the representation, within a period of six weeks, pursuant to which the rejection order came to be passed by the Respondents on 16.07.2018 and challenging the same O.A.No.530 of 2019 came to be filed and the same was also dismissed, against which the present petition came to be filed and due to which the Respondents were forced to drag the disciplinary proceedings. He further submitted that it is no doubt true that in terms of Rule 68 of the CCS (Pension) Rules 1982 interest would be applicable provided that there is fault on the Department and in this case as there is no fault on the Department, the petitioner is not entitled to any interest and this Writ Petition is liable to be dismissed.

8. Heard both sides. Perused the records.

9. For the sake of convenience Rule 68 (3) of Central Civil Services (Pension) Rules pertaining to payment of interest is extracted hereunder:

(3) Guidelines for determining delay in payment of gratuity in cases other than superannuation and payment of interest therefor. - Payment of interest on delayed payment of gratuity is, at present, regulated under Rule 68 of the CCS (Pension) Rules, 1972.

2. Certain administrative authorities have drawn attention to the fact that in cases of retirement on superannuation, the work of assessment of the demands outstanding against them commences two years in advance whereas in other cases of retirement, assessment of Government dues, etc., can begin only after the retirement has been approved by Government and have raised a doubt whether the provisions of Rule 68 are also applicable to those who retired otherwise on superannuation and if so whether the time-limit of three months is to be observed in such cases. The position has been reviewed in consultation with the Ministry of Finance. It has been decided that if the payment of gratuity has been delayed due to administrative lapses for no fault of the retiring employee in cases of retirement other than superannuation, the payment of interest may be regulated in the following manner :-

(i) In case of Government servants against whom disciplinary/judicial proceedings are pending on the date of retirement and in which gratuity is withheld till the conclusion of the proceedings:-



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(a) In such cases if the Government servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide O.M. No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983. If the payment of gratuity has been authorized after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement.

(b) In cases where the disciplinary/judicial proceedings are dropped on account of the death of the Government servant during the pendency of disciplinary/judicial proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of death and if the payment of gratuity has been delayed interest may be allowed for the period of delay beyond three months from the date of death.



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(c) In cases where the Government servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity vide O.M. No.7 (1) PU/79, dated 11-7-1979. If the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond three months from the date of issue of the above-mentioned orders by the competent authority.

10. The Writ Petitioner attained the age of Superannuation on 31.07.2012 and though the Charge Memos are quashed, terminal benefits were not settled within three months as contemplated in the aforesaid rules. A reading of the rules would make it very clear that in such cases, if the Government servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide O.M. No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983. If the payment of gratuity has been authorized after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement.

11. The interest on gratuity will come into operation only if the Charge Memo is quashed or withdrawn. Even though the Petitioner has sought for relief of payment of interest in the original Applications, the same was not granted and that cannot be a ground to deprive the interest on the belated payment of gratuity.

12. Hence we are of the view that the order of the Tribunal dated 11.04.2019 is liable to be interfered with and accordingly the Respondents are directed to calculate the payment of interest on the gratuity amount paid on 14.06.2016, for the delay period, within a period of four months at 6% per annum.



13. With the above observations, this Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

arr

To

1. Union of India,
rep. by its Director General Posts,
Dak Bhawan, Samsad Marg,
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2. The Principal Chief Postmaster General,
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3. The Director,
Postal Services,
Western Region,
Tamilnadu,
Coimbatore 641 002.
4. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Madras-600 104.

+1cc to M/s.C.S.Associates, Advocate, S.R.No.28282

+1cc to M/s.K.Sriniva Murthy, Advocate, S.R.No.28139

W.P.No.31898 of 2019

RSI (CO)
RGA (15/06/2022)