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WP.No.28252 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2022

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THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.28252 of 2018

R.Raman

.. Petitioner

Versus

The Chief Executive Officer,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam,
Chennai – 600 108.

.. Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondent to pay interest at the rate of 12% per annum on the gratuity amount from 16.02.2004 to 04.04.2016 for which he has made representation dated 14.06.2016 and 19.09.2017 and also caused a lawyer's notice dated 25.09.2017.

For Petitioner : Mr.R.Malaichamy

For Respondent : Mr.U.M.Ravichandran
Special Government Pleader



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ORDER

The prayer sought for herein is for a writ of Mandamus to direct the respondent to pay interest at the rate of 12% per annum on the gratuity amount from 16.02.2004 to 04.04.2016 for which he has made representation dated 14.06.2016 and 19.09.2017 and also caused a lawyer's notice dated 25.09.2017.

2.The petitioner having worked as Soap Chemist in the respondent Organization, namely, Tamil Nadu Khadi and Village Industries Board was facing a punishment of compulsory retirement. Accordingly, he was compulsorily retired from service with effect from 16.02.2004.

3.Thereafter, the petitioner has not made any application immediately to move for pension papers and to disbursement of pensionary benefits like gratuity and admittedly he has made such an application only on 26.11.2014, i.e. after ten years and more. Thereafter only it was processed and pension and gratuity was paid on 05.04.2016 to the petitioner.



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Therefore, for such belated payment of retirement benefits including gratuity seeking 12% interest from 16.02.2004 to 04.04.2016 the petitioner had given representation in the year 2016-2017 and lawyer notice on 25.09.2017. Since those attempts have not been considered and no orders have been passed by the respondent allowing interest as prayed for, he has moved the present writ petition with the aforesaid prayer.

4.Heard Mr.R.Malaichamy, the learned counsel for the petitioner who would submit that in the counter affidavit filed by the respondent though it was stated that the application itself was submitted by the petitioner only on 26.11.2014, as per Rule 45A of the Tamil Nadu Pension Rules even for those who suffered with the compulsory retirement within six months period from the date of retirement, such amount i.e. gratuity amount should have been paid to the retiring person and in this case assuming that the application had been submitted on 26.11.2014, within six months they have not paid admittedly since they have paid only on 05.04.2016, even for such a delay caused by the respondent they are liable to pay the interest which can be quantified at 12% per annum, the learned counsel for the petitioner



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would contend.

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5. Heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondent who relied upon the following averments made in the counter affidavit:

“8.I deny the averment under para 12 and 13 of the affidavit departmental proceedings initiated against him and finally awarded punishment of “Compulsory Retirement”on 16.02.2004. After the punishment of compulsory retirement, the petitioner sent the pension proposal on 26.11.2014. After receiving the proposal the Assistant Development Officer (Soap), Thirukazhukundram perused the proposal and sent the proposal through proper channel vide Rc.No.2/TSU/2014 dated 27.04.2015. After the scrutiny of pension proposal it was sent to the Deputy Director, Internal STS audit and finally given the audit certificate on 15.02.2016.

As the per audit certificate and the no objection certificate received from the office where the petitioner worked, the pension was sanctioned vide Board's proceedings Rc.No.12722/P3/2014 dated 05.04.2016. The pensionary benefits like pension with arrears and gratuity



are disbursed to the petitioner on 28.04.2016 and there is no delay in payment of pension and gratuity by the board. Hence, as per the pension rules there is no way to pay interest at the rate of 9% on gratuity because the payment was done within the month of the pension order sanctioned.”

6.Relying upon the said averment, the learned Special Government Pleader would submit that the very application itself even seeking for gratuity was submitted by the petitioner admittedly only on 26.11.2014, i.e. more than ten years from his compulsory retirement and thereafter it has been processed and a certificate to that effect from the Deputy Director, Internal STS Audit was finally obtained only on 15.02.2016. Thereafter only on 05.04.2016, the sanction order was issued. Therefore, there is no delay on the part of the respondent. Hence the petitioner is not entitled to seek for any interest as claimed in this petition.

7.I have considered the rival submissions made by both sides and perused the materials placed before this Court.



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8.As has been pointed out by the learned Special Government Pleader appearing for the respondent, the petitioner admittedly has given application only on 26.11.2014 even though retired compulsorily on 16.02.2004. Therefore, there is a huge delay in making the application on the part of the petitioner.

9. Be that as it may, after making such application on 26.11.2014 reasonable time of six months could have been taken by the respondent to disburse the gratuity amount payable to the petitioner. Therefore, the six months period would be over by May 2015, i.e. 25.05.2015. Thereafter there is a delay of about ten months in paying the said amount including gratuity which admittedly was paid only on 05.04.2016. Hence, this Court feel that for the said period of about ten months from 26.05.2015 till 03.04.2016 the petitioner would be entitled to get interest.

10.Normally this kind of belated payment of retirement benefits, the interest quantified would be 6%. Therefore, in this case also the petitioner would be entitled to get only 6% interest.



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11.In the result, the following orders are passed in the present writ

petition:

“That there shall be a direction to the respondent to pay the interest at 6% on the gratuity which paid to the petitioner on 05.04.2016 for the period from 26.05.2015 till 03.04.2016 and accordingly, the said interest shall be calculated and be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

12.With the above direction, this writ petition stands disposed of.

However, there shall be no order as to costs.

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Internet : Yes
Index : Yes/No
cse

To

The Chief Executive Officer,
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R.SURESH KUMAR, J.,

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