



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM :

WEB COPY

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.7199 of 2020 and
WMP(MD) No.6628 of 2020

D.Joseph Disosa

Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Higher Education (K1) Department,
Secretariat,
Chennai - 9.

2.The Registrar,
Madurai Kamaraj University,
Madurai - 625 021.

3.The Vice Chancellor,
Vice Chancellor's Office,
Madurai Kamaraj University,
Madurai - 625 021.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the second respondent to disburse the retirement benefits such as 30% of gratuity and 10% of monthly pension with an accrued interest thereon for the belated payment of monetary benefits at the rate of 18% within the period that may be stipulated by this Court.

For Petitioner :Mr.H.Mohammed Imran for
M/s.Ajmal Associates

For R1 :Mr.A.Kannan
Additional Government Pleader

For R2 & R3 :Mr.Ragatheesh Kumar

O R D E R

This writ petition is filed to direct the second respondent to disburse the retirement benefits of the petitioner with an accrued interest within the period that may be stipulated by this Court.



2.The learned counsel for the petitioner submits that the petitioner was working as Special Grade Assistant at Madurai Kamaraj University and retired from service on 31.07.2016, on attaining the age of superannuation. The retirement benefits were settled to the petitioner, except 30% of gratuity and 10% of monthly pension with an accrued interest. The grievance of the petitioner is that even after lapse of five years after the petitioner retired from the service, the aforesaid retirement benefits were not yet settled to him. The learned counsel appearing for the petitioner submits that there are 12 other similarly placed persons were already been disbursed with the retirement benefits. However, this petitioner was not provided with the retirement benefits in view of the audit objection. Hence, he made representation to the respondent on 23.03.2020. Since no action has been taken on the side of the respondents, the petitioner is before this Court with the present Writ Petition.

3.The learned counsel appearing for the petitioner submits that as per the law laid down in the case of ***S.K.Dua vs. State of Haryana*** reported in **2008 (3) SCC 44**, the petitioner is entitled for the benefits with interest.

4. When this writ petition is taken up for hearing, Mr.Ragatheesh, learned counsel appearing for the respondents 2 & 3 submits that the petitioner's claim was considered and the amount has already been sanctioned. However, it was not disbursed due to some audit objection and that was also now cleared and it would be disbursed within a period of four weeks from the date of receipt of a copy of this order. Insofar as interest is concerned, the learned counsel appearing for the respondents opposes the same by stating that 75% of gratuity and 90% of retirement benefits have already been disbursed to the petitioner during 2016 itself. The remaining amount alone retained and that too in view of the audit objection and therefore, this petitioner is not entitled for the interest.

5. Heard both sides and perused the materials on record.

6.It appears that the petitioner retired from service on 31.07.2016 itself. But by referring the audit objection, he has not been settled with the entire retirement benefits for the past five years. Now, the learned counsel appearing for the respondents 2 & 3 also agreed to settle the balance retirement benefits. But he disputed the interest portion alone. In this regard, the Hon'ble Apex Court in ***S.K.Dua vs. State of Haryana*** reported in **2008 (3) SCC 44**, has held as follows:

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules



occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in living even without issuing notice to the respondents."

In this case, the petitioner has been settled with the retirement benefits except 30% of gratuity and 10% of monthly pension, which is kept pending for the past five years, by referring the audit objection. If there is any unnecessary delay on the part of the respondents, they are supposed to pay an interest for the belated payment of terminal benefits, as per the dictum laid down in **S.K.Dua vs. State of Haryana** reported in **2008 (3) SCC 44**. The respondent, while disbursing the remaining retirement benefits to the petitioner, shall also consider the case of the petitioner, in the light of the dictum laid down in the aforesaid case and if the petitioner is eligible for interest, it must be paid with interest within a period of four months from the date of receipt of a copy of this order.

7. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

vrn

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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+1 CC to M/s.SPL.GP (SR-801[F] dated 07/01/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-779[F] dated 07/01/2022)

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