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W.P.No.2069 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.2069 of 2020

P.Stanley Paulraj

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by its,
Secretary to Government,
Public Works Department,
Secretariat,
Chennai - 600 009.

2.The Engineer-in-Chief (WRO) and
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai - 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India seeking Writ of Mandamus directing the respondents to consider the claims of the petitioner and pay interest for the belated payment of terminal benefits of SPF, GPF and encashment of leave salary.

For Petitioner : Mr.K.Arumugam

For Respondents : Mr.G.Nanmaran
Special Government Pleader



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ORDER

This writ petition has been filed seeking to issue a writ of mandamus directing the respondents to consider the claim of the petitioner to pay interest for the belated payment of terminal benefits of SPF, GPF and encashment of leave salary in the interest of justice.

2. A Counter affidavit has been filed by the respondents.

3. Heard Mr.K.Arumugam, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the petitioner is that he was initially appointed as Assistant Engineer on 30.10.1979 in the Public Works Department of the respondents. Subsequently, he was promoted as Assistant Director (Assistant Executive Engineer), Hydrology Sub-Division, and posted in Poondi Reservoir, Thiruvallur District. He retired from service on 31.07.2013. The respondents framed certain charges against the petitioner under Rule 17b of the Tamil Nadu Civil Service (Disciplinary



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and Appeal) Rules. This Court by its order dated 24.11.2021 in W.P.Nos.34089 & 34090 of 2022 quashed the charges levelled against the petitioner. The grievance raised by the petitioner in this writ petition is with regard to the belated payment of terminal benefits payable to the petitioner by the respondents.

5. In the counter affidavit filed by the respondents, it is stated that after retirement of the petitioner on 31.07.2013, they paid Special Provident Fund, General Provident Fund and encashment of leave salary to the petitioner. They further contended that though the petitioner submitted a representation on 21.07.2017 requesting the second respondent to settle his retirement benefits, he did not request to pay interest for the belated payment of terminal benefits and as such, now he is not entitled for the interest.

6. Learned counsel for the petitioner placed reliance of the order dated 06.09.2010 passed by this Court in ***S.Ramadoss vs. State of Tamil Nadu represented by its Secretary to Government, Agricultural Department*** reported in ***(2010) 8 MLJ 249*** and order dated 17.12.2008 passed by this Court in ***Government of Tamil Nadu represented by its***



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Secretary to Government, Revenue Department vs. M.Deivasigamani

reported in (2009) 3 MLJ 1 and the judgment of the Hon'ble Apex Court in *Union of India and others vs. C.Girija & Others* reported in 2019 (2) Supreme 513.

7. This court gave anxious consideration to the rival contentions made by the respective counsels and perused the record and have gone through the reliances placed by the learned counsel for the petitioner.

8. It is an admitted fact that the respondents framed certain charges against the petitioner during the service and subsequently, he retired from service. It is also an admitted fact that the charges levelled against the petitioner were quashed by this Court by its order dated 24.11.2021 in W.P.Nos.34089 & 34090 of 2012. In the counter affidavit filed by the respondents, they admitted that after retirement of the petitioner on 31.07.2013, they paid Special Provident Fund, General Provident Fund and encashment of leave salary to the petitioner, but it is not stated in the said counter affidavit what is the date of the payment of the said amounts to the petitioner.



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9. In my considered opinion, the amounts to be paid to the petitioner towards Special Provident Fund, General Provident Fund and encashment of leave salary are the properties of the petitioner. As such, though disciplinary proceedings are pending against the petitioner, the respondents have no right to withhold the same without making payment to the petitioner. It appears in the present case that though the petitioner retired from service on 31.07.2013, the said amounts are not paid to the petitioner immediately or within a reasonable period.

10. Learned counsel for the petitioner submits that these amounts are paid to the petitioner in the year 2015.

11. As the date of payment is not mentioned in the counter affidavit by the respondents, this Court has no other option except to accept the submission of the learned counsel for the petitioner as correct. In view of the matter, it is to be held that the petitioner is entitled for the interest for the belated payment of Special Provident Fund, General Provident Fund and encashment of leave salary by the respondents. The view of this Court is fortified in the reliances placed by the learned counsel for the petitioner.



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12. While considering an identical issue in (1) **Government of**

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Tamil Nadu represented by its Secretary to Government, Revenue

Department vs. M.Deivasigamani stated supra, the Division Bench of

Madras High Court held at Paragraph 7 as extracted herein under:

"7. In view of the judgment of the Supreme Court, it is now well settled that an employee is entitled to interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions or guidelines and he can make his claim for interest, under Part III of the Constitution, relying on Articles 14, 19 and 21 of the Constitution."

(2) in **S.Ramadosh vs. State of Tamil Nadu represented by its Secretary to Government, Agricultural Department** stated supra, the High Court of Madras held at Paragraphs 14 and 15 as extracted herein under:

"14. It is seen in the order of the second respondent dated 20.7.2005, in which the petitioner was exonerated from the charges that the petitioner submitted his explanation for the charges only on 12.11.2002 and therefore, there was a delay of 3 years on the part of the petitioner to submit his explanation for



the charges which, in my considered view, has to be taken into consideration for the purpose of deciding the liability on the part of the respondents to pay interest for the belated payment. On the facts and circumstances of the case, I am of the considered view that the petitioner should be paid interest by the respondents for the belated payment of terminal benefits from January, 2003 till the date of payment, as stated above.

15. In such view of the matter, the writ petition stands allowed partly with direction to the respondents to pay interest at the rate of 12% p.a. for the belated disbursement of terminal benefits of Rs.5,50,820/- from 1.1.2003 till 31.10.2007, which shall be paid within a period of eight weeks from the date of receipt of copy of the order, along with costs of Rs.5000/- to be paid by the respondents to the petitioner."

(3) in ***Union of India and others vs. C.Girija & Others*** reported in **2019**

(2) ***Supreme 513*** as stated supra, the Hon'ble Apex Court held at

Paragraph 23 as extracted herein under:

"23. We are thus of the view that applicant was entitled for retiral benefits immediately after the date of retirement. We direct Respondent Nos.1 to 4 in Writ Petition (C)No.653 of 2015 to determine and pay the retirement benefits to the applicant, if not already paid, within a period of 02 months from today. We further



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direct that applicant should be paid interest @ 8% p.a. on retirement benefits after one month of retirement i.e. w.e.f. 01.07.2015, till the payment is made of the retiral benefits. In result, the Civil Appeal No. 1577 of 2019 and Civil Appeal No. 1578 of 2019 are allowed and the Writ Petition (C) No. 653 of 2015 is disposed of with the aforesaid directions."

13. For the above said reasons and by following the orders passed by this Court and Hon'ble Apex Court as stated supra, this writ petition is **disposed of** with a direction that the petitioner should be paid interest at the rate of 8% per annum on retirement benefits i.e., on Special Provident Fund, General Provident Fund and encashment of leave salary, after one month of retirement i.e., with effect from 31.07.2013 till the payment is made to the petitioner.

14. There shall be no order as to costs.

15. Consequently, connected miscellaneous petition is closed, if any.

19.06.2023

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Note: Issue order copy within three days from today.

Index : Yes/No

Neutral Citation: Yes/No



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To
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BATTU DEVANAND, J.

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