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Writ Petition No.6750 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

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THE HONOURABLE DR.JUSTICE D.NAGARJUN

Writ Petition No.6750 of 2015

A.Anandasekar

..Petitioner

vs.

1.The Managing Director,
Tamilnadu Civil Supplies Corporation Ltd.,
No.42,Thumbu Samy Street,
Kilpauk,
Chennai-10

2.The Regional Manager,
Tamilnadu Civil Supplies Corporation Ltd.,
Collectorate Complex,
Namakkal.

3.The Deputy Regional Manager,
Tamilnadu Civil Supplies Corporation Ltd.,
Collectorate Complex,
Namakkal.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to pay interest @ 18% per annum for the delayed payment of retiral benefits viz., (i) leave encashment benefit for a sum of Rs.3,22,740/- for a period from 31.10.2010 to 31.12.2014 and (ii) Gratuity for a sum of Rs.3,50,000/- for a period from 31.10.2010 to 16.03.2011 in accordance with the



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judgment of this Court in WP No.5670 of 2012.

For Petitioner : Mr.V.Ravindran for M/s.Giridhar & Sai Associates.

For Respondents : No appearance

ORDER

This writ petition has been filed seeking for issuance of a Mandamus, to direct the respondents to pay interest @ 18% per annum for the delayed payment of retiral benefits viz., (i) leave encashment benefit for a sum of Rs.3,22,740/- for a period from 31.10.2010 to 31.12.2014 and (ii) Gratuity for a sum of Rs.3,50,000/- for a period from 31.10.2010 to 16.03.2011 in accordance with the judgment of this Court in WP No.5670 of 2012.

2.Heard the learned counsel for the petitioner and perused the records. No representations on behalf of the respondents. Even on an earlier occasion also, the respondents were not being represented. It appears that the respondents are not interested to defend this writ petition thereby, this writ petition is being disposed of basing on the available records.



3.It is submitted by the learned counsel for the petitioner that the petitioner was appointed as Mill Technical Assistant in Tamilnadu Civil Supplies Corporation on 25.08.1975. Subsequently, he was promoted to the post of Quality Inspector in the year 1983 and retired from service on 31.01.2010 after completion of 35 years of service. A cheque for a sum of Rs.3.5 lakhs was given on 16.03.2011 towards Gratuity due, without any interest. As per the circular of the Department dated 03.11.1999, 12 months prior to the date of the retirement of the employee, the proceedings have to be initiated for payment of Gratuity and other retiral benefits.

4.It is further submitted that the petitioner was also entitled for encashment of un-utilized Earned Leave at the time of superannuation. The petitioner was having 242 days of the Earned Leave and 180 days of Un-Earned Leave to his credit. The petitioner has submitted the representations dated 21.02.2013, 28.02.2013 and 13.04.2013 respectively seeking for payment of encashment of un-utilised Earned Leave and Earned Leave. When there was no response, a legal notice was issued on 08.04.2014 seeking to pay the balance of interest on the delayed payment of Gratuity and also to pay the encashment of Earned Leave and Unearned Leave with



interest @ 18% per annum.

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5. The petitioner filed WP.No.22291 of 2014 seeking to consider his representations, and was disposed of by this Court, directing the respondents to consider the representation of the petitioner and dispose of the same within a period of eight weeks. The petitioner again submitted a representation dated 02.09.2014, but even then there was no response. Therefore, a contempt notice was issued on 18.11.2014 thereby, the first respondent passed orders ordering the payment of Rs.3,06,663/-, after deducting a sum of Rs.17,929/- out of Rs.3,22,740/-. Finally, a cheque was issued on 31.12.2014 for a sum of Rs.3,04,811/-. But again the said amount was paid without interest for the delayed payment for a sum of Rs.3,04,811/-, for a period between 31.10.2010 and 31.12.2014.

6.As observed above, there is no representation on behalf of the respondents. There was no pendency of the departmental proceedings against the petitioner as per the circular issued by the first respondent dated 03.11.1999 to give Gratuity and Leave Encashment etc. The Gratuity and Leave encashment should have been paid to the petitioner at the time of



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retirement. The respondent has paid Gratuity with a delay and so far as enhancement of Earned Leave and Leave salary is concerned, the said amount was paid belatedly. Therefore, the petitioner has filed the present writ petition seeking for suitable directions of this Court.

7. The petitioner cited a judgment of this Court in the case of "***The Government of Tamilnadu, rep. by the Secretary to Government, Revenue Department, Fort St. George and Another Vs. M.Deivasigamani***" dated 17.12.2008 in W.A. No.886 of 2007 and also an another authority of this Court in WP (MD) No.5670 of 2012 dated 23.08.2012 in the case of "***S.M.Ramamoorthy Vs. the Senior Regional Manager(SRM), TNCSC Ltd., Madurai-20***", wherein, it has been directed to pay interest @ 9 % for the delayed payment of retiral benefits.

8. The learned counsel for the petitioner has also cited a judgment in the case of "***Mr.P.V.Mahadevan Vs. The Secretary to Government, Housing and Urban Development Department and the Managing Director of Tamilnadu Housing Board***"(MANU/TN/3473/2011) in WP.No.12716 of 2010, wherein, a direction was given by this Court to pay



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interest @ 18% per annum for the delayed disbursement of retiral benefits to the petitioner therein.

9. In view of the observation made in the decisions cited supra, this Writ Petition is allowed, directing the respondents to pay the interest @ 18% for the delayed payment, within a period of four weeks from the date of receipt of a copy of this order. No costs.

12.12.2023

Index : Yes/No

Speaking order: Yes/No

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To

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Dr.D. NAGARJUN, J

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