



W.P.No.21681 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	02.02.2023
Pronounced on	16.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21681 of 2018

C.Krishnan

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.

2.The Revenue Divisional Officer,
Salem – 636 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records relating to the impugned order bearing Na. Ka. No.250/2005/A1 dated 15.11.2017 passed by the second respondent and consequential order bearing Letter No. Letter No.34588/ ஸ்ரீ -7(1)/2017-2 dated 21.02.2018 passed by the respondent and quash the same and consequently direct the respondents to pay interest at the rate of 18% p.a. From 28.02.2005 to 04.07.2014 to the petitioner on the belated payment of retirement benefits such as gratuity, GPF, Pension, Encashment of earned leave and pay fixation arrears etc.



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For Petitioner : Mr. M.Ramdass
For Respondents : Mr. K.H.Ravikumar, GA

O R D E R

Heard Mr.M.Ramdass, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate appearing on behalf of the respondents.

2. When the petitioner was due to retire on 28.02.2005, he was served with the order of suspension on the same day by the second respondent herein in contemplation of an inquiry into grave charges. On 22.03.2005, a charge memo was issued, which was challenged by the petitioner before this Court in W.P.24223 of 2006. By an order dated 23.07.2009, the charge memo was quashed. As against the same, the second respondent herein had preferred an intra-Court appeal in W.A. 1710 of 2010, in which the disciplinary action initiated by the respondents was held to be illegal and accordingly, dismissed the Writ Appeal. Even thereafter, the retirement benefits were not disbursed to the petitioner, which prompted him to file Contempt No.2735 of 2013. Pending the Contempt Petition, the retirement



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benefits was paid to the petitioner on 04.07.2014. Thereafter, the petitioner made a representation on 24.10.2014, seeking for interest on the belated payment of his retirement benefits and since there was no response, he filed a Writ Petition before this Court in W.P. No.1435 of 2015. By an order dated 02.08.2017, his representation was directed to be considered in accordance with law. In accordance with the direction of this Court, the second respondent had rejected the petitioner's representation on 15.11.2017, which was confirmed by the first respondent on 21.02.2018. Both these orders are put under challenge in the present Writ Petition with the consequential prayer to award interest on the belated payment on the retirement benefits.

3. The entitlement of the Government servant to seek interest for belated payment of the terminal benefits was dealt with, by this Court in various decisions and had been decided in favour of the employees. Some of the decisions were considered by the Hon'ble Division Bench in the case of ***M.Suceela Bai Vs. The Government of Tamil Nadu rep. by its Principal Secretary, Revenue Administration, Chennai and 3 Others passed in W.A.3162 of 2019*** in the following manner:

"... (v) A Hon'ble Division Bench of this Court in the case of the Commissioner for Milk Production and Dairy Development and Ors. Vs. S.Venkatachalam and



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Ors. reported in (2019) 1 MLJ 1, has observed as follows:

"12. It is well known that pension is not a bounty, but, is deferred wages. The Hon'ble Supreme Court has time and against deprecated the action of the Government in delaying release of pension. It is now settled that even if the pension rules do not provide for grant of interest, Writ Court is not powerless to grant interest on the delay in payment of pension. The Hon'ble Supreme Court in S.K.Dua Vs. State of Haryana & Others {MANU/SC/7048/2008 : 2008 (3) SCC 44}, has observed as under:-

"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



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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 limine even without issuing notice to the respondents."

13. It is to be noted that this judgment was passed, when the High Court refused to grant interest, on the belated payment of retiral benefits, on the ground that there was no provision in the Pension Rules, permitting grant of interest for belated pension. Law laid down by the Hon'ble Supreme Court squarely applies to this case.

14. In fact, a Hon'ble Division Bench of this Court, in Government of Tamil Nadu, represented by the Secretary to Government, Revenue Department, Chennai and another Vs.



M.Deivasigamani {2009 (3) MLJ 1}, wherein one of us (Mr. Justice S.Manikumar), is a party, has granted interest, on delayed payment of pension.?"

20. Giving due consideration to the several grounds raised, we are of the view that right of a government servant, to receive pensionary and retirement benefits, at the earliest, should be given priority, vis-a-vis, the interests of the government. Disbursement of both cannot be withheld, from the date of entitlement, causing prejudice to the rights of a government servant. In the light of the discussion and decisions, we hold that the appellant/petitioner is entitled to interest on the belated disbursement of pension and terminal benefits."

4. The aforesaid extracts are self explanatory. The charge memo against the petitioner was quashed by a learned Single Judge and the Hon'ble Division Bench, on appeal, had upheld the order of the learned Single Judge, by holding the action of the respondents as illegal, in the following manner:

"8.In the present case on hand, though enquiry was ordered against the respondent on 22.03.2005, till the date of filing of the writ petition, no final order is passed against him. When we have specifically ordered to report to



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this Court by 14.08.2012 as to the stage of the enquiry, and even after granting adjournment by seven times, the Additional Government Pleader is not able to report the stage of the enquiry. Therefore, in those circumstances, the disciplinary proceedings initiated against the respondent / petitioner are considered to be illegal and accordingly, we see no reason to interfere with the order passed by the learned single judge in quashing the order of suspension as well as the order not permitting the respondent/petitioner to retire from service, dated 28.02.2005 and also the charge memo, dated 22.03.2005."

5. When the entire proceedings initiated by the respondents was held as illegal, the delay in disbursing the terminal benefits, cannot be attributed on the petitioner. In line with the ratio laid down by this Court in all the aforesaid decisions, the petitioner would be entitled for payment of interest on the belated payment of his retirement benefits.

6. In the light of the above discussions, the impugned orders of the second respondent and first respondent dated 15.11.2017 and 21.02.2018 respectively, are quashed. Consequently, there shall be a direction to the first respondent to pay interest at the rate of 6% per



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annum from 28.02.2005 to 04.07.2014 and thereby, disburse the amount to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. There shall be no order as to costs.

16.02.2023

Internet : Yes
Order : Speaking
Neutral Citation : Yes

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To

- 1.The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.
- 2.The Revenue Divisional Officer,
Salem – 636 001.



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M.S.RAMESH,J.

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ORDER MADE IN

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16.02.2023