BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16949 of 2020

K.Rajendramany ... Petitioner

Vs.

1.The Chairman,
The Marine Products Export Development Authority,
(Ministry of Commerce & Industry, Govt., of India),
MPEDA House, Panampilly Avenue,
P.B.No.4272,
Kochi-682 036.

2.The Secretary,
The Marine Products Export Development Authority,
MPEDA House, Panampilly Avenue,
P.B.No.4272,
Kochi-682 036.

3.The Deputy Director (PERS),
The Marine Products Export Development Authority,
MPEDA House, Panampilly Avenue,
P.B.No.4272,
Kochi-682 036. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order of the 2nd respondent in PERS/PENS/231/1/2018-PERS, dated

28.05.2020 and quash the same and consequentially direct the respondents herein to pay the interest for the delayed payment of petitioner's retirement benefits of Rs.11,66,583/- (Rupees Eleven Lakh Sixty Six Thousand Five Hundred and Eighty Three only) for the period 01.03.2013 to 11.12.2020 at the rete of 12% per annum.

For Petitioner	:	Mr.Lakshmi Gopinath
For Respondents	:	Mr.K.Ashok Kumar Ram Central Government Senior Counsel

ORDER

The present writ petition has been filed to call for the impugned order of the 2nd respondent in PERS/PENS/231/1/2018-PERS, dated 28.05.2020 and quash the same and consequentially direct the respondents herein to pay the interest for the delayed payment of petitioner's retirement benefits of Rs. 11,66,583/- (Rupees Eleven Lakh Sixty Six Thousand Five Hundred and Eighty Three only) for the period 01.03.2013 to 11.12.2020 at the rete of 12% per annum.

2. The petitioner was working with Marine Products Export Development Authority(MPEDA), Ministry of Commerce, Government of India, Sub-Regional Office, Tuticorin as Assistant Director and retired on

28.02.2013 on superannuation. He joined service with the respondents on 01.09.1979 as Junior Clerk through direct requirement and subsequently, promoted as Senior Clerk and later, promoted as Junior Investigator and further promoted as Extension Officer and then as Assistant Director and finally, the petitioner retired as Assistance Director on 28.02.2013. As per the orders of the 1st respondent, dated 28.02.2023, the petitioner was allowed to retire without prejudice to the disciplinary proceedings contemplated against him. However, the retirement benefits of the petitioner were withheld by MPEDA without any valid reasons. Hence, the petitioner filed W.P(MD)No.6580 of 2013 seeking to quash the condition imposed there in the retirement order, dated 28.02.2013. However, while the said writ petition was pending, after five months of the petitioner's retirement, disciplinary proceedings were initiated against the petitioner on 05.08.2013 and the memorandum of charges were also issued against the petitioner under Rule 14 of Central Civil Services CCS (CCA) Rules 1965. Hence, the petitioner again approached this Court by filing W.P(MD)No.9534 of 2015 seeking to stay and quash the charges against him.

3. While those two writ petitions were pending, the writ petitioner made several representations to the respondents for disbursing his terminal benefits

and also he made a representation to the National Commission for Scheduled Castes (NCSC). In the meanwhile, a legal opinion was sought from the department of Legal Affairs, Ministry of Law and Justice by the Ministry of Commerce and Industry which is the Administrative Department for MPEDA. The Department of Legal Affairs, Government of India in its opinion, dated 28.07.2015 gave its opinion that MPEDA do not have the power to issue memorandum of charges to a pensioner on the basis of the legal opinion obtained from the Department of Legal Affairs, Department of Commerce, Ministry of Commerce and Industry instructed MPEDA to pay the retirement benefits to the petitioner vide their letter, dated 29.01.2016. However, even then, the respondents failed to comply with the said instruction. Then, again the petitioner was constrained to approach the respondents seeking his terminal benefits and at that time, it was informed to him that the charges framed against him were already dropped and only because of the pendency of the various writ petitions, the terminal benefits were not disbursed to him.

4. On the advice of MPEDA to withdraw those writ petitions, the writ petitioner had also duly withdrew the writ petitions in W.P(MD)No.6580 of 2013 on 12.11.2018 and W.P(MD)No.9534 of 2015 on 26.11.2018. Thereafter,

after a long delay of 5 years 10 months, the terminal benefits of the petitioner were disbursed to him on 11.12.2018. However, the respondents failed to pay the interest for the period of delay in payment of the terminal benefits. Hence, the petitioner made a representation to the department of MPEDA claiming interest for the delayed payment of retirement benefits, dated 14.03.2020. However, the 2nd respondent denied the petitioner's request for interest through impugned order, dated 28.05.2020. Challenging the same, this writ petition came to be filed.

5. The respondents have filed a counter stating that only because of the pendency of those writ petitions, there was a delay in payment of terminal benefits to the petitioner. Hence, the petitioner is not entitled to any interest for the terminal benefits.

6. Heard Mr/s.Lakshmi Gopinath, learned counsel for the petitioner and Mr.K.Asok Kumar Ram, learned Central Government Senior Counsel for the respondents.

7. This Court is of the considered view that Rule 65 of the CCS Pension Rules, 2021 mandates that in all cases, where provisional pension or provisional family pension or provisional gratuity has not been sanctioned in

accordance with these rules and whenever there is a delay in payment of pension or family pension or gratuity, the pensioner is entitled for payment of interest. The date of the legal opinion itself would reveal that the delay in disbursing the terminal benefits is caused only by the callousness of the respondents. In view of the same, this Court is inclined to quash the impugned order, dated 28.05.2020 and thereby directing the 2nd respondent to pay the interest for a period of delay (01.03.2013 to 11.12.2018) at the rate of 6% per annum. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. In view of the above said observations, this Writ Petition stands allowed. No costs.

10.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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L.VICTORIA GOWRI, J.

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