



W.P.(MD)No.17495 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17495 of 2019
and
W.M.P.(MD)No.13976 of 2019

K.Balasubramanian

... Petitioner

vs.

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai-600 009.

2.The Director of Local Fund Audit,
4th Floor, Nanthanam,
Chennai-600 035.

3.The Commissioner,
Tenkasi Municipality,
Tenkasi-627 811,
Tirunelveli District.

... Respondents



W.P.(MD)No.17495 of 2019

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Muu.Mu.No.34030/NaOSa(3)/2017-2, dated 28.03.2019 passed by the 2nd respondent and to quash the same and consequently, to direct the respondents to pay 18% of interest along with calculation sheet for a sum of Rs. 55,556/- towards commutation amount, for a sum of Rs.44,980/- (Rs.22,614/- for the period from 01.01.2007 to 30.06.2009 + Rs.22,366 for the period from 01.07.2009 to 24.11.2010] towards pension and dearness allowance arrears, and family welfare amount Rs.25,000/- from 24.11.2010 and for a sum of Rs.9,084/- towards the delayed payment of November month pension amount from 24.11.2010, totally for a sum of Rs. 1,34,620/- (Rupees One Lakh Thirty Four Thousand Six Hundred Twenty only) from the date of death of the petitioner's father till the date of realization of payment as per the judgment reported in (2001) 9 SCC 687, Vijay L.Mehrotra Vs. State of U.P And Others within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan
For R1 and 2 : Mr.M.Lingadurai
Special Government Pleader



W.P.(MD)No.17495 of 2019

For R3 : Mr.P.Athimoolapandian

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order, dated 28.03.2019 passed by the 2nd respondent and consequently, to direct the respondents to pay 18% of interest along with calculation sheet for a sum of Rs.55,556/- towards commutation amount, for a sum of Rs.44,980/- (Rs. 22,614/- for the period from 01.01.2007 to 30.06.2009 + Rs.22,366 for the period from 01.07.2009 to 24.11.2010] towards pension and dearness allowance arrears, and family welfare amount Rs.25,000/- from 24.11.2010 and for a sum of Rs. 9,084/- towards the delayed payment of November month pension amount from 24.11.2010, totally for a sum of Rs. 1,34,620/- (Rupees One Lakh Thirty Four Thousand Six Hundred Twenty only) from the date of death of the petitioner's father till the date of realization of payment as per the judgment reported in



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WEB COPY

(2001) 9 SCC 687, Vijay L.Mehrotra Vs. State of U.P And Others within the time stipulated by this Court.

2. The petitioner's father Late.K.Kumaravel was serving as Office Assistant in the 3rd respondent office and attained superannuation on 30.04.2006. Thereafter, the said Kumaravel received all the retirement benefits and died on 24.11.2010. The Government issued 6th Pay Commission revision and revised the salary and pension to the employees and retired employees respectively. As per the recommendation of the 6th Pay Commission, the 3rd respondent sent proposals for revising the terminal benefits to the petitioner's father vide letter dated 14.09.2010 and the second respondent revised the terminal benefits on 14.09.2010. Thus the petitioner's father is entitled to receive the difference in DCRG, commuted value of pension, arrears of pension, family welfare fund, etc. Before receiving the benefits, the petitioners father died on 24.11.2010.



W.P.(MD)No.17495 of 2019

WEB COPY

Thereafter, the petitioner submitted several representation to the respondents requesting to disperse the difference of terminal benefits on the basis of the 6th Pay Commission recommendation. The respondents 2 and 3 had already passed an order in favour of the petitioner's father by proceedings, dated 14.09.2010 extending the benefits as per the 6th Pay Commission for a period from the month of November 2007 to 24.11.2010 and the pension amount for the month of November 2010. Since the 3rd respondent did not disburse the above monetary benefits, the petitioner had filed W.P.(MD)No.13614 of 2016 and this Court vide order dated 01.08.2016 directed the respondents to disburse the amount within a period of 2 weeks. Thereafter, the petitioner received a sum of Rs.1,04,340/- towards the difference in DCRG on 24/08/2016 and pension arrears of Rs. 34,084/- on 26/05/2017.



W.P.(MD)No.17495 of 2019

WEB COPY

3. The contention of the petitioner is that the said amount ought to have been paid in the year 2010 itself, but the respondents have paid belatedly in the year 2016-2017. Therefore, the petitioner submitted a representation dated 15.09.2017 for payment of compound interest for the belated payment of different in DCRG a sum of Rs.1,04,340/- as per the provision contained under Rule 45A of Tamil Nadu Pension Rules, 1978 and for a sum of Rs.34,084/- difference in pension from 2010 till the date of payment as per the dictum of the Hon'ble Supreme Court.

4. Therefore the petitioner again filed W.P.(MD)No. 20403 of 2017 and this Court directed the respondents to consider the representation dated 15.09.2017 and also directed to file a compliance report. Since the respondent had not considered and pass order, the petitioner had filed contempt petition in Cont. P.



W.P.(MD)No.17495 of 2019

WEB COPY

(MD)No.947 of 2018. After filing of the contempt petition, the respondents disbursed the interest amount for DCRG to the tune of Rs.18,639/- through Cheque No.058586 dated 18.09.2018 drawn on State Bank of India. The contention of the petitioner is that the respondents have not paid the interest for commutation pension, dearness allowance and family welfare amount. Therefore, the petitioner is before this Court seeking 18% interest for belated revision of pay granted under 6th Pay Commission.

5. The 2nd respondent has filed counter affidavit stating that based on the revision of pay in 6th Pay Commission the amount was quantified for the period from 01.01.2007 vide letter dated 14.09.2010. Subsequently, the petitioner's father died on 24.11.2010 and the same was intimated to the respondents. Thereafter, adequate instructions were obtained from the higher officials. In the



W.P.(MD)No.17495 of 2019

WEB COPY

meanwhile, the petitioner filed a writ petition and also a contempt petition. After considering the claim of the petitioner, the respondents have already paid the interest on 18.09.2018 as stated in the Payment of Gratuity Act to the tune of Rs. 18,639/-. For other payments, there is no provisions to grant interest to the petitioner. Therefore, the 2nd respondent prayed to dismiss the writ petition.

6. Heard Mr.M.R.Sreenivasan, learned Counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for respondents 1 and 2 and Mr.P.Athimoolapandian, learned Counsel appearing for 3rd respondent and perused the records.

7. It seen from the records that the petitioner's father had attained superannuation and retired on 30.04.2006 and had received all the retirement



W.P.(MD)No.17495 of 2019

WEB COPY

benefits and there is no delay in disbursing the same. Thereafter there was revision of pay and revision of pension in the 6th Pay Commission during the year 2009 through G.O.(Ms)No.234, Finance (Pay Cell) Department, dated 01.06.2009. In the 6th Pay Commission Revision there was total change in the method of fixing the scale of pay and there was major shift in the fitment table method. Hence there were several discrepancies and pay anomalies. Several representations were filed before the Government. The Government after considering the representations accepted the pay anomalies, formed “One Man Commission” in order to resolve the pay anomalies. Thereafter, the government had issued several government orders and government letters clarifying the issues and directed to fix the salary based on the fitment table prescribed thereunder.

8. As far as the retired persons are concerned, separate G.O.s, were issued



W.P.(MD)No.17495 of 2019

WEB COPY

with separate instructions. Therefore, the Government delayed in paying the arrears to the employees as well as to the retired employees. Since the petitioner has come forward with a writ petition, based on the order of this Court, the respondents have calculated the interest in the belated payments of DCRG. As far as commutation of pension is concerned, commutation of pension will never carry interest at all. Since the pensionary amount would be available which would be in the credit of the deceased employee, whenever the request of the commutation comes from the employees or retired employees, the paper would be processed. Therefore, the commutation of pension will never ever carry any interest even if it is paid belatedly. The petitioner is seeking interest for the belated payment of dearness allowance and family welfare amount. Since the Government revised the salary and pensionary benefits under 6th Pay Commission wherein the 6th Pay Commission has completely changed the pattern of payments and structure of



W.P.(MD)No.17495 of 2019

WEB COPY

scale of pay with grade pay, there were several discrepancies and pay anomalies which the government ratified periodically until 2015. Therefore, the Government has paid arrears and other amounts belatedly.

9. Therefore this Court is of the considered opinion that in the present case there is no delay in disbursing the DCRG and terminal benefits when the deceased employee was retired on superannuation on 30.04.2006. It is only the revision of pension under 6th pay commission there may be delay. Even in this the respondents had paid the DCRG along with interest. As held supra commutation would not carry any interest. As far as the other payments are concerned it is only revision under 6th pay commission and hence this Court is of the considered opinion the same would not carry any interest. Moreover because of the factors stated supra, the Government had paid belatedly. The employee had died and it is



W.P.(MD)No.17495 of 2019

WEB COPY

only the son of the deceased employee is claiming interest and has no equity to claim any interest. For the reasons stated supra this Court is not inclined to entertain the claim to pay interest. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

03.04.2023

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WEB COPY



W.P.(MD)No.17495 of 2019

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W.P.(MD)No.17495 of 2019

S.SRIMATHY, J

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W.P.(MD)No.17495 of 2019

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