IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.3518 of 2021

K.Bhanumathy ... Petitioner

Vs.

1.The District Elementary Educational Officer
Tiruvannamalai
Tiruvannamalai District.

2.The Block Educational Officer
Tiruvannamalai Union
Tiruvannamalai District.

3.The Deputy Secretary
Officer of the Accountant General (A&E)
Tamil Nadu
361, Anna Salai
Teynampet
Chennai – 600 028.

4.The Assistant Director,
Office of the Assistant Director of Internal Audit
And Statutory Boards Audit Department,
No.13, Manthopu, P.U.S.Nagar,
Polur Main Road,
Tiruvannamalai – 606 601. …Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order of the 2nd respondent dated 02.11.2020 in Na.Ka.No.807/A1/2020 and quash the same and consequently, direct the respondents to settle the balance TPF amount of Rs.26,060/- with interest to the petitioner along with interest for belated payments in respect of Teachers Provident Fund (TPF), Special Provident Fund (SPF), Encashment of Earned Leave, Unearned Leave, pay arrears and gratuity, at the rate of 18% per annum from the date of due till the date of payment.

For Petitioner	:	Mr.V.Sivalingam for C.S.Associates
For Respondents	:	Mr.K.H.Ravikumar Government Advocate

ORDER

The petitioner herein, who worked as Secondary Grade Teacher, retired from service on attaining the age of superannuation on 31.05.2014. Thereafter, the petitioner was paid all the terminal benefits such as Death cum Retirement Gratuity, Revised Death cum Retirement Gratuity, Special Provident Fund (SPF), Encashment of Earned Leaveand Unearned Leave etc.

2. The grievance of the petitioner in the writ petition is that the amount payable to the petitioner on retirement are belatedly and therefore, the petitioner is entitled for payment of interest on such delayed payments.

Questioning the inaction on the part of the respondents in considering the claim of the petitioner for payment of interest on alleged delay in payment, the petitioner approached this Court on earlier occasion by filing W.P.No.19700 of 2017. The said writ petition was disposed of by this Court, directing the petitioner to submit a fresh representation to the respondents and further directed the respondents to consider the said representation made pursuant to the said order. The petitioner submitted a representation dated 21.08.2020 and the said representation was considered by the respondents and passed an order dated 02.11.2020 rejecting the claim of the petitioner. It is aggrieved by the said order, the petitioner approached this Court by filing the present writ petition.

3. The petitioner has narrated the dates on which the said amounts are due and payable and the dates on which the said amounts were actually paid to her and alleged that there is abnormal delay in payment of said amounts and therefore, the petitioner is entitled for the payment of interest on such amounts paid belatedly.

4. In response, the 2nd respondent filed detailed counter affidavit contending that all the amounts that are payable to the petitioner are paid

within reasonable time and the delay if any caused in payment of such amount is because of defaulted on the part of the petitioner. It is further stated that in terms of Rule 53 of the Tamil Nadu Pension Rules, 1978, the petitioner is under an obligation to submit an application for payment of pension at least one year in advance of the date of his anticipated retirement. But the petitioner had submitted an application only on 05.05.2014 i.e., only 25 days before the date of retirement and the said delay on the part of the petitioner in submitting the application is a cause for the delay in payment of the retirement benefits to the petitioner.

5. The 2nd respondent also narrated the details of the amounts that are paid to the petitioner on the different heads to demonstrate that there is no abnormal delay on the part of the respondents. The relevant paragraph of the counter affidavit reads as under:

> *"3. It is humbly submitted that the 1st and 2nd respondents' officer is not responsible for the delay in disbursing the pensionary benefit to the petitioner which is the subject matter of the proceedings made by the 2nd respondent dated 02.11.2020 in Na.Ka.No.807/A1/2020 and which inter alia states:*

Death cum Retriement Gratuity:

The pension proposal was received in the office of the 2nd respondent on 05.05.2014 and after scrutinizing the application Pension proposal was prepared and the same was forwarded to the Accountant General on 26.06.2014 and order received from the Accountant General on 04.08.2014 and DCRG Bill was submitted in the Treasury on 06.08.2014 only one day was taken by the 2nd respondent disburse the DCRG to the Petitioner.

Revised Death cum Retirement Gratuity:

On 10.01.2017 the Petitioner submitted his application for a revised pension and the revised proposal was prepared and forwarded to the Accountant General on 13.03.2017 and order received from the Accountant General on 31.03.2017 and DCRG Bill was submitted in the Treasury on 06.04.2017 only 5 days was taken by the 2nd respondent disburse the Revised DCRG to the Petitioner.

Earned and Unearned Leave

The Tax Deduction at Source should be done by the 2nd respondent as such the 2nd respondent asked the Petitioner to submit an income statement and subsequently, the petitioner submitted her income statement on 29.09.2014 and bill was prepared on 30.09.2014 and the Bill was submitted in the Treasury on 01.10.2014 without any *delay.*

<u>TPF Final Closure</u>

After completion of TPF Account Audit, the Assistant Elementary Educational Officer, Thiruporur forwarded the Audit Report to the 2nd respondent which was received in the 2nd respondent office on 16.09.2014 within 15 days on 31.10.2014 2nd respondent forwarded the TPF Final Closure statement to the 3rd respondent. After 4 months and 5 days, the 3rd respondent sent the audit report on 05.03.2015 and within 15 days on 13.03.2015, the Bill was submitted to the treasury.

The above said facts shows that there is no inordinate delay on the part of 2nd respondent as such the proceedings made by the 2nd respondent dated 02.11.2020 in Na.Ka.No.807/A1/2020 is valid in law."

6. Inspite of the specific averments made in the counter affidavit alleging that there is abnormal delay on the part of the petitioner in submitting the application of pension, there is no reply or rejoinder filed by the petitioner and no material is placed on record to show that the petitioner submitted an application in terms of Rule 53 of the Tamil Nadu Pension Rules, 1978 at least one year in advance prior to the date of superannuation of the petitioner.

Rule 53 of Tamil Nadu Pension Rules, 1978 reads as under:

> *"**53. Submission of application for pension:-** Every Government servant shall submit in writing an application for pension in Form 5.*
>
> *Provided that [self drawing Government servant] shall send his application direct to the Audit Officer and [non-self drawing Government servant] to the Head of Office.*
>
> *(2) Every Government Servant shall submit his application for pension at least one year in advance of the date of his anticipated retirement;*
>
> *Provided that-*
>
> *(i) in a case in which the date of retirement cannot be foreseen one year in advance, the application shall be submitted immediately after the date of retirement is settled; and*
>
> *(ii) a Government servant, proceeding on leave preparatory to retirement in excess of one year, shall submit the application at the time of proceeding on such leave."*

Thus it is evident that the petitioner failed to submit application as required under Rule 53 and therefore, she can't throw the blame on the respondents.

7. This Court also carefully perused and verified the dates on which the amounts due to the petitioner were actually paid and is throughly convinced that there is no abnormal delay that is attributable to the respondents for granting interest to the petitioner, on the said amounts.

8. In the light of the above, this Court does not find any merit in the writ petition and the same is accordingly dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

07.06.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

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MUMMINENI SUDHEER KUMAR,J.

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