



W.P.No.25118 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20/12/2023
Delivered on	13/6/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.25118 of 2015

R. Murugan ... Petitioner

Vs

1. The Commissioner
for Milk Production and Dairy Development
Madhavaram Milk Colony
Chennai 600 051.
2. The Managing Director
TCMPF Ltd
Aavin Illam
Madhavaram Milk Colony
Chennai 600 051. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus to direct the respondents to pay interest at the rate of 12% p.a., on the gratuity and leave salary payments made to the petitioner and due to him from the date of his retirement viz., 31/5/2009 till the date of disbursal, as per the Rules in force.



W.P.No.25118 of 2015

For petitioner

...

Ms.T.Hemalatha

For respondents

...

No appearance

ORDER

This writ petition is filed for a direction by way of mandamus to the respondents to pay interest at the rate of 12% p.a., on the belated payment of gratuity, leave salary from the date of his retirement i.e., on 31/5/2009, until the date of disbursement.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

The petitioner has worked as Assistant General Manager (Dairying) in Erode District Co-operative Milk Producers Union Limited, Erode, which was affiliated to Tamil Nadu Co-operative Milk Producers Federation. He was retired as Managing Director of the said Federation on 31/5/2009 on attaining the age of superannuation.

3. The proceeding in respect of his retirement was issued by the second respondent on 29/5/2009, wherein the terminal benefits to be paid



W.P.No.25118 of 2015

to the petitioner were ordered to be with held citing pendency of some audit objections and Arbitration case at Erode District Union, thereby, all the terminal benefits like gratuity, leave salary, Special Provident Fund were not paid to the petitioner.

4. The petitioner has made several representations. When there was no response, he has filed W.P.No.24496 of 2014, seeking for a direction to the first respondent to consider the representations of the petitioner and to pay retirement benefits. The said writ petition was ordered on 10/9/2014, directing the authorities concerned to consider the representation of the petitioner dated 14/5/2014 and pass appropriate orders. Based on the directions of this Court, by an order dated 7/1/2015, terminal benefits which were with held were ordered to be released with some deductions. The petitioner was paid the following retirement benefits from Erode District Union:-

<i>Cheque Nos.</i>	<i>Date</i>	<i>Amount (in Rs.)</i>	<i>Description</i>
008492	1/4//2015	Rs.26,406/-	Payment of Superannuation fund
008562	10/4/2015	Rs.3,50,000/-	Gratuity payment



W.P.No.25118 of 2015

<i>Cheque Nos.</i>	<i>Date</i>	<i>Amount (in Rs.)</i>	<i>Description</i>
008661	22/4/2015	Rs.3,40,156/-	Payment of leave salary

5. While making representations to the authorities for release of terminal benefits, petitioner has made a specific mention that since there is a delay in payment of retirement benefits, he has demanded to pay the said amounts with interest. However, the respondents have not paid the retirement benefits, without any interest.

6. On account of delayed payment on gratuity, interest have to be paid with 12% p.a., as per G.O.Ms.No.122 Finance (Pension) Department dated 20/2/1995 and G.O.Ms.No.487 dated 7/10/2009 and it is also submitted that in respect of other payments also, interest is required to be paid by the respondents. The petitioner has made representations to pay the interest on delayed payments of terminal benefits. Since there was no response, petitioner has filed the instant writ petition.

7. The second respondent had filed counter affidavit mentioning about the service progression of the petitioner from Assistant General



W.P.No.25118 of 2015

Manager from 2/4/1997 to 31/5/2009. In respect of issue raised by the petitioner, it is not in dispute that the petitioner was paid terminal benefits as under:-

<i>S.No.</i>	<i>DETAILS</i>	<i>AMOUNT (in Rs.)</i>	<i>DATE</i>
1.	Superannuation	Rs.26,406/-	1/4/2015
2.	Gratuity	Rs.3,50,000/-	10/4/2015
3.	Leave salary	Rs.3,40,156/-	22/4/2015

8. It is further mentioned in the counter affidavit that on account of administrative reasons, there was a delay in settlement of terminal benefits to the petitioner and retirement benefits were paid as soon as the report from the Commissioner for Milk Production and Dairy Development was received. There was no intentional delay caused in payment of terminal benefits and thereby, interest cannot be paid.

9. Heard Ms.T.Hemalatha, learned counsel for the petitioner and perused the materials available on record.

10. As per Section 7 (3-A) of the Payment of Gratuity Act, 1972 in



W.P.No.25118 of 2015

respect of delayed payment of gratuity, interest rate as notified by the

Central Government has to be paid. It appears that as per the latest

Notification, interest for delayed gratuity is 10%. Admittedly, petitioner

was retired from service on 31/5/2009 and as per the counter affidavit,

gratuity was paid on 10/4/2015 i.e., after six years of retirement.

Therefore, as per Section 7 (3-A) of the Payment of Gratuity Act, 1972

and on the basis of the settled legal position, petitioner is entitled for

interest of Rs.3,50,000/- from the date of his retirement i.e., on

31/5/2015 till the date of payment i.e., on 10/4/2015.

11. Similarly, in respect of other heads of retiral benefits, viz., superannuation fund and leave salary are concerned, it is clear that superannuation fund of Rs.26,406/- was paid to the petitioner on 1/4/2015, thereby, the petitioner is entitled for interest on the said amounts at the rate of 6% p.a., from 31/5/2009 to 1/4/2015. Similarly, leave salary of Rs.3,40,156/- was settled in favour of the petitioner on 22/4/2015, thereby the petitioner is entitled to interest at the rate of 6% p.a. The respondents though submitted that there was no intention on delayed payments of the retirement benefits still the respondents could not give any convincing reply as to why delay has occurred. Merely



W.P.No.25118 of 2015

saying that on account of administrative delay, payments could not be paid is not sufficient.

12. According to the respondent, since audit objections were pending, proceedings were issued to retain the retirement benefits of the petitioner. However, no material is placed to show that the petitioner is responsible for whatever lapses found in audit objections. If really the petitioner has committed any administrative lapses, normally the Department could have initiated disciplinary proceedings even before his retirement. But, the petitioner was allowed to retire without any condition. Therefore, there is no justification on the part of the respondents that there is no intention for delayed payment and hence, request of the respondents not to grant interest for the delayed payments cannot be accepted.

13. In view of the discussions made above, writ petition is allowed, directing the respondents to pay interest at the rate of 12% p.a., on the belated payment of gratuity, leave salary from the date of his retirement i.e., on 31/5/2009, until the date of disbursement.



W.P.No.25118 of 2015

13/6/2024

WEB COPY

mvs.

Index: Yes/No

Neutral Citation: Yes/No

D.NAGARJUN,J

mvs.

Pre-delivery order made in
W.P.No.25118 of 2015



WEB COPY



W.P.No.25118 of 2015

13/6/2024