IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.9250 of 2024

P.Natarajan ... Petitioner

Vs.

1. The Secretary to Government,
Finance Department,
Secretariat,
Chennai 600 009.

2.The Registrar,
Annamalai University,
Annamalinagar,
Chidhambaram,
Cuddalore District.

3.Pension Pay Officer,
Department of Treasuries and Accounts,
Amma complex, Ground Floor,
Veterinary Hospital Campus,
No.571,Anna Salai, Nandanam,
Chennai 600 035. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in

Ls.No.J1-3/CPS/98038/2023 dated 16.11.2023 on the file of 2nd respondent and quash the same and direct the 2nd respondent to disburse the interest at the rate of 12% per annum for the period of 8 years 11 months and 17 days delay in disbursing the terminal benefits for a sum of Rs. 8,53,696/- to the petitioner and grant such other relief may deem fit and proper under the circumstances of the case.

For Petitioner	: Mr.D.Nandhagopal
For Respondents	: Mr.P.Ganesan, Government Advocate for R1
	: Mr.E.C.Ramesh for R2

ORDER

This Writ Petition is filed challenging the impugned order dated 16.11.2023 in and by which the balance of 50% of the retirement benefits to the petitioner was paid to the petitioner. The order is challenged inasmuch as it does not pay any interest to the petitioner.

2. The case of the petitioner is that the petitioner attained superannuation in the year 2016. However, only 50% of the retirement benefits were paid at the time of superannuation. The balance is now paid by

the impugned order. The respondents took their own time in paying the balance, and therefore the petitioner is entitled to interest.

3. The learned counsel for the petitioner would also rely upon the judgment of this Court in ***P.Ganesan vs. State of Tamil Nadu*** in WP(MD).No.1/2017, wherein this Court has ordered interest at the rate of 9% per annum for the belated payment of all the terminal benefits.

4. The Writ Petition is resisted by the respondents by filing a counter affidavit. As per the counter affidavit, in view of the maladministration of Annamalai University, thereby it is leading to the grant of excessive scales of pay etc. to many of its employees, and in view of the entire financial indiscipline, a larger decision was taken by the university when it was taken over by the government that only 50 % of the retirement benefits due to the employees will be paid and the balance will be paid only after the clearance from the audit department. The petitioner retired in 2016; accordingly, at the time of retirement, 50% of the dues were paid. As far as the balance dues are concerned, the matter was taken up with the audit department, and finally, an audit certificate on 29.07.2022 was issued clearing the objections and

imposing certain other conditions. Only thereafter the respondents processed the balance of 50% and disburse it by the impugned order dated 16.11.2017 and therefore, when the delay is explained and the delay is only for the above valid reason, no interest can be ordered in this case.

5. The learned counsel for the respondent would rely upon the judgment of this Court in ***K.Subramaniyan Vs. The State of Tamil Nadu*** in WP.No.26701/2017 whereby when the payment was belayed on account of an audit objection, this Court had refused interest.

6. I have heard the rival submissions made on either side, and perused the materials record available in this case.

7. At the outset, the retirement benefits are not a bounty but is the property of the petitioner, and even in the absence of any express provision, if there is any delayed payment, the petitioner will be entitled to interest. The only question to be considered is whether there are any mitigating circumstances that would entitle the respondent university to a claiming exemption for payment of interest.

8. In this case, it is stated that since there was maladministration of the university, the university itself was taken over by the government, and in order to verify the financial position, scales of pay, etc., which were all granted to various posts at different levels, a decision was taken to garnt 50% of the retirement benefits for the employees retiring and to pay the balance after obtaining audit clearance. To that extent, the university may be justified in delaying 50% of the amount. However, they ought to have taken swift steps to complete the said exercise, and the petitioner has now been deprived of the amount until 2023. Even assuming that the same is a valid reason, in this case, even as per the counter affidavit, it can be seen that the audit certificate was obtained on 29.07.2022; therefore, at least by 31.08.2022 the balance could have been paid thereafter, i.e., within a month. However, even thereafter, there is a delay of almost 15 months. Therefore, the petitioner would be entitled to interest at least from 01.09.2022 up to 16.11.2023.

9. Therefore, this Writ petition is allowed on the following terms:

(i) The impugned order dated 16.11.2023, which only pays

the balance amount of the petitioner, is upheld;

(ii) The respondents are directed to calculate interest at a rate of 9% per annum from 30.07.2022 upto 16.11.2023 on the said amount of Rs.8,53,696/- within a period of six weeks from the date of receipt of a copy of this order and pay the same to the petitioner; If the amount as directed is not paid within a period of six weeks, thereafter the rate of interest will be 12% per annum.

(iii) No costs.

27.06.2024

Neutral Citation :Yes/Np
jrs

D.BHARATHA CHAKRAVARTHY, J.

jrs

To

The Secretary to Government,
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