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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 29534 of 2018

1.M.Sabapathy
2.K. Krishnan
3.K. Lakshmanan
4.M. Saravanan
5.V. Arumugham
6.K. Chakkarai
7.M. Shanmugham
8.R. Shanmugha Sundaram
9.V. Bhanumathi
10.N. Janaki
11.G. Jagannathan
12.L. Munisamy
13.E. Narasimhalu Naidu
14.G. Murugan
15.P. Sundaramoorthi
16.T.V. Srinivasan
17.M. Shanmughanatham
18.A. Banumathi
19.M. Manickam
20.V.R. Soundararajan
21.S. Dhanam
22.A.M. Subramanian
23.N. Paramasivam
24.K. Gowri
25.R. Rajagopal
26.V. Natarajan
27.C. Chandra
28.K. Thilakvathy
29.R. Manjula
30.M. Krishnamoorthy
31.Krishnamoorthy

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32.K. Sunnabee
33.M. Manoon Mani
34.S. Anbazhagan
35.V. Radha
36.R. Gnaneswaran
37.P. Noorulla
38.K. Shanmugam
39.S. Kamala
40.K. Sarangubai
41.P.V. Vadivel
42.A.S. Krishnarajan
43.P. Raja
44.P. Rajeswari
45.A. Viswanathan
46.C. Thavamani
47.K. Vijaya
48.M. Koteeswaran
49.P. Selvaraju
50.R. Thirupathi
51.P. Lakshmi
52.P.K. Kalaivani
53.M. Manikodi
54.C. Kannammal
55.S. Paruvatham
56.P. Raniammal
57.B. Kalyani
58.M. Pachiammal
59.C. Vasantha
60.R. Sellammal
61.P. Subramanian
62.C. Ganesan
63.S. Yasotha
64.M. Kaliappan
65.T. Sivanandam
66.N. Charumathi
67.M. Rajan
68.M. Ramasamy
69.G. Lakshmi
70.A. Murugesan
71.R. Rangammal
72.K. Kandasamy

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73.R. Chinnaraju
74.K. Chinnasamy
75.R. Arunachalam
76.M. Ramamoorthy
77.R. Thavamani
78.M. Rosemary
79.G. Pusparani
80.K. Chinnasamy
81.C. Vasantha Kumari
82.N. Vasuki
83.K. Kaveri ... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep., by the Principal Secretary to Government,
Educational Department, Secretariat,
Chennai – 600 009.

2.The District Elementary Education Officer,
Krishnagiri District, Krishnagiri.

3.The Assistant Elementary Educational Officer,
Kaveripattinam, Krishnagiri District. ... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records on the file of the first respondent herein in relation to G.O. (1D) No.258, School Education (Ni.V.2) Department dated 23.07.2015 and quash the same to the limited extent of calculating the interest on delayed payment on the basis of simple interest instead of calculating the interest on compound interest basis (to be compounded annually) and to the limited extent of restricting the period for which the interest has been calculated only till 31.12.2013 instead of reckoning the period from the respective dates of payments due to the petitioner till the date of actual disbursement of the respective amounts to the respective petitioners herein and to consequently directing the first respondent (i) to calculate the interest on delayed payment for the respective due dates of payment

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of the amounts to the petitioners till the actual date of disbarment of amounts (i.e., till 21.05.2015) by applying compound interest (to be compounded annually) and to sanction and disburse the said amounts to the petitioners along with (ii) interest on the above arrived amount (to be compounded annually) w.e.f. 22.05.2014 till the actual date of disbursement of the amounts mentioned in items I and II herein after deducting the interest amount already paid to the petitioners on 14.08.2015.

[Prayer amended as per order dated 11.06.2024 in W.M.P.No.10623 of 2024 in W.P. No.29534 of 2018]

For Petitioners : Mr. S. Balarshram
for Mr. M. Ravi
For Respondents : Mrs. P. Raja Rajeswari,
Government Advocate

O R D E R

This Writ Petition has been filed against the G.O.(1D) No.258, School Education (Ni.V.2) Department, dated 23.07.2015 wherein, it is ordered to disburse the interest for the belated payment of provident fund and arrears of 5th pay commission to the petitioners on the following two grounds: -

1. The interest was not calculated on delayed payment from the respective due dates of payment of the amounts to the petitioners till the actual date of disbursement of amounts.

2. Interest on the said amount has to be compounded annually but simple interest was calculated while issuing the said G.O.

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2. This Court by order dated 27.11.2013, while disposing of the W.P. No. 32207 of 2013, directed the respondents to settle the Provident Fund amount payable to the petitioners, Dearness Allowance and also the Fifth Pay Commission arrears if any, within 16 weeks from the date of receipt of copy of that order. It is also made it clear that, as far as the claim regarding interest is concerned, the authorities concerned are required to apply the appropriate G.O., which is in force and pay the amount accordingly, within the period stipulated therein.

3. In compliance of this order, the G.O.(ID) No.258 dated 23.07.2015 was issued.

4. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents.

5. On perusal of G.O.(ID) No.258 dated 23.07.2015 impugned in this writ petition, it is clear that the respondents fixed the date i.e., 31.12.2013 as cut off date to count the payment of interest as directed by this Court in its order dated 27.11.2013 in W.P. No. 32207 of 2013. It is settled law that the payment of interest for belated payment of the amounts for which employee is legally entitled has to be calculated from the date of his retirement i.e., the date on which the amounts are due to him.

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6. But in the present case, the respondents erroneously fixed the date as 31.12.2013 to calculate the pension, which is illegal and irrational. The second ground raised by the petitioners is that, the simple interest is calculated to make payment to the petitioners. As per G.O.No.173, Finance (Pension) Department, dated 01.04.2004, the interest for belated payment has to be calculated based on the compound rate of interest. Infact, in the order dated 27.11.2013 in W.P. No.32207 of 2013, this Court directed to calculate the interest, the concerned authorities has to apply the appropriate G.Os. But contrary to the G.O.No.173, Finance (Pension) Department, dated 01.04.2004, the respondents calculated the simple interest instead of compound rate of interest, which is illegal and erroneous.

7. For the above said reasons, in the considered opinion of this Court, the G.O.(ID) No. 258, School Education Department, dated 23.07.2015 is passed contrary to the directions issued by this Court in order dated 27.11.2013 in W.P. No.32207 of 2013 and contrary to the G.O.173, Finance (Pension) Department dated 01.04.2004 and accordingly, it would not sustain in the eye of law. Accordingly, it is liable to be quashed. Accordingly the G.O. (1D) No.258, School Education (Ni.V.2) Department dated 23.07.2015 impugned in this writ petition is hereby quashed.

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8. Accordingly, this Writ Petition is allowed with the following directions: -

i) The respondents shall calculate the amount of interest payable to the petitioners as directed by this Court in the order dated 27.11.2013 in W.P. No. 32207 of 2013 from the date of actual due.

ii) While calculating the interest, the respondents have to calculate the interest by applying compound rate of interest as per G.O.No.173, Finance (Pension) Department, dated 01.04.2004.

9. There shall be no order as to costs.

29.10.2024

Index :Yes/No
Neutral Citation :Yes/No
AT

To
1.The Principal Secretary to Government,
State of Tamil Nadu,
Educational Department, Secretariat,
Chennai – 600 009.

2.The District Elementary Education Officer,
Krishnagiri District, Krishnagiri.

3.The Assistant Elementary Educational Officer,
Kaveripattinam, Krishnagiri District.

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BATTU DEVANAND, J.

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