IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.11311 of 2011
and
M.P.No.1 of 2011

P.Dakshinamurthy ... Petitioner

Vs.

1. Government of Tamil Nadu,
   Represented by Principal Secretary to Government,
   Revenue Department, Secretariat, Chennai – 600 009.

2. The Principal Commissioner and Commissioner of Revenue Administration,
   Chepauk, Chennai – 600 005.

3. The Accountant General (A&E),
   Tamil Nadu, Chennai – 600 018. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to payment of interest for the belated disbursement of pension, commuted value of pension, DCRG Encashment of leave salary, GPF at 10% per annum from 01.10.2000 onwards till the date of disbursement thereof, within a limited time frame.

For Petitioner : Ms.R.Nivedha

For R1 & R2 : Mr.K.H.Ravikumar,
Government Advocate

For R3 : Mr.P.Mano Rajan

ORDER

While the petitioner was working as 'Deputy Collector/ Distillery Officer' in Kothari Sugars and Company, Tiruchirapalli, disciplinary proceedings have been initiated against the petitioner on certain charges levelled against him. While such proceedings were pending, the petitioner attained the age of superannuation on 30.06.2000. In view of the same, the Government issued G.O (D) No.376, Revenue (Ser 2(2)) Department, dated 30.06.2000, permitting the petitioner to retire from service without prejudice to the disciplinary proceedings pending against the petitioner. It was thereafter the disciplinary proceedings that were initiated by issuing a charge-memo dated 09.05.2000 were continued by duly conducting an enquiry and through the Government Letter No.27176/Ser.2(2)/2001-13, dated 16.10.2002 proposed to impose the punishment of cut in pension at Rs.100/- for a period of three months. The petitioner claimed to have accepted to suffer the said punishment. However, the said disciplinary proceedings, which ought to have been concluded on 16.10.2002 were not concluded, but they were again reopened by issuing a fresh charge-memo dated 23.11.2005 in supersession of the previous charge-memo dated 09.05.2000 and thereafter, the said disciplinary proceedings continued for about four years and concluded through G.O (D) No.258, Revenue (Ser 2(2)) Department, dated 28.05.2009, imposing the punishment of cut in pension at

Rs.500/- per month for a period of one year. The said punishment was accepted by the petitioner and that has attained finality. During the pendancy of the said disciplinary proceedings, the amounts that were due to the petitioner towards retirement benefits were all paid except the commutted value of pension and DCRG amounts in the light of the Rules 60 and 69 of the Tamil Nadu Pension Rules. It was on conclusion of the disciplinary proceedings on 28.05.2009, the committed value of pension of Rs.2,13,477/- and DCRG amounts of Rs.1,31,504/- were paid to the petitioner through PPO.No.C209776/Revenue dated 03.11.2009.

2. It was thereafter, the petitioner made a claim for payment of interest on delayed payment of committed value of pension and DCRG amount and having failed to get any response from the respondents, approached this court by filing the present writ petition seeking a writ of mandamus, to direct the respondents to pay interest at the rate of 10% per annum on the belated payment on commutted value of pension and DCRG amount, encashment of Earned Leave, GPF etc., with effect from 01.10.2000.

3. Heard Ms.Nivedha, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate appearing for the

Respondents 1 and 2 and Mr.P.Mano Rajan, learned counsel for the Respondent No.3.

4. From the factual aspects narrated above, it is evident that the petitioner retired from service on 30.06.2000 and the disciplinary proceedings that were initiated against the petitioner by issuing a charge-memo dated 09.05.2000 were concluded ultimately only on 28.05.2009 by issuing G.O (D) No.258, Revenue (Ser 2(2)) Department, dated 28.05.2009. Thus, there is more than nine years time passed by the time the disciplinary proceedings were concluded. Absolutely there is nothing to show that the petitioner is in anyway responsible for the delay in conclusion of the disciplinary proceedings .

5. On the other hand, it appears that the reason for issuance of a fresh charge-memo, in superstition of the previous charge memo on 23.11.2005 is because of the objections raised by the TNPSC. Even assuming that there is no much delay in issuing a fresh charge-memo dated 23.11.2005, it was thereafter, the respondents took about four years for concluding the disciplinary proceedings. Thus, at no point of time, the petitioner can be said to be responsible for the delay in the conclusion of the disciplinary proceedings.

6. It is necessary to notice that the said disciplinary proceedings initiated in

the year 2000 against the petitioner were ultimately concluded on 28.05.2009, imposing the punishment of 'cut in pension of Rs.500/- per month for one year'. The total value of the punishment that was imposed against the petitioner works out to Rs.6000/-. That itself show that the charges levelled against the petitioner are minor in nature and the punishment ultimately imposed is also trivial in nature. Keeping that in view, the action of the respondents in prolonging the disciplinary proceedings for more than nine years that to after the petitioner attained the age of superannuation cannot be said to be justified and reasonable. Absolutely, the respondents have acted in a irresponsible manner in concluding the disciplinary proceedings against the person, who was retired from service as early as on 30.06.2000 and deprived him of his legitimate amounts that are due on his superannuation and payable towards the DCRG and commuted value of pension.

7. As seen from the counter-affidavit i.e., GPF and other terminal benefits were already paid to the petitioner immediately after his superannuation. Therefore, the only amount that was delayed is the amount payable towards the DCRG and the commuted value of pension. However, from the perusal of the material on record, it is noticed that the petitioner was paid provisional pension of Rs.4,688/- which is the full pension, for which the petitioner is otherwise

entitled to with effect from 01.07.2000 till the conclusion of the disciplinary proceedings. After conclusion of the disciplinary proceedings, the pension payment order was issued by the Respondent No.3 on 03.11.2009, whereby the petitioner was allowed to commute a portion of the pension payable to him and amount of Rs.1,31,504/- was paid to the petitioner. In view of the failure on the part of the respondents in concluding the disciplinary proceedings within a reasonable time, the effect of Rules 60 and 69 of the Tamil Nadu Pension Rules cannot be allowed to operate to prejudice the interest of the petitioner and the respondents are not entitled to take shelter under the said Rules to justify their action.

8. As the petitioner was paid a provisional pension at the rate of full pension for which he was otherwise entitled to, the question of payment of any interest on the committed value of pension paid on 03.11.2009 does not arise. Then the remaining amount, which was belatedly paid to the petitioner is only the DCRG amount of Rs.2,13,477/-, which was admittedly paid to the petitioner only on 29.03.2010 through Cheque No.053778. But for the abnormal delay in conclusion of the disciplinary proceedings that were initiated against the petitioner, the petitioner would have received this amount immediately after the superannuation on 30.06.2000. Thus, the action of the respondents in prolonging

the disciplinary proceedings for more than nine years is bound to be declared as arbitrary and illegal and consequently, the petitioner should be appropriately compensated.

9. Whether the employee is entitled for the interest on the belated payment of the terminal benefits or not, has fallen for consideration before a learned Division Bench of this Court in W.A.No.886 of 2007 dated 17.12.2008 this court has been pleased to hold as under by following decision of the Hon'ble Apex court:-

> *"5. In Dr.Uma Agarwal V. State of U.P reported in (1999) 3 SCC 438, the Supreme Court held that, "....grant of pension is not a bounty but a right of the government servant. The Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the Rules/Instructions apart from other relevant factors applicable to each case.*
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> *6. The contention of the appellant that as per the Government norms, interest can be paid only on Death-cum-Retirement Gratuity, in case of delay and the same cannot be awarded to any other retiral benefits, is not tenable, in view of the decision of the*

Supreme Court in S.K.Due v. State of Haryana reported in 2008 (3) SCC 44. In the reported case, the appellant therein was served with three charge sheets/show cause notices in June 1998, few days before his retirement. However, he retired on 30.06.1998 on reaching the age of superannuation. He was paid provisional pension, but other retiral benefits were not given to him, which included commuted value of pension, leave encashment, gratuity, etc. They were withheld till the finalisation of disciplinary proceedings. While answering the issue as to whether the appellant therein was entitled to interest on delayed payment of retiral benefits, in the absence of any statutory rules/administrative instructions or guidelines, the Supreme Court, at Paragraph 14 of the judgment, held as follows:

> *"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in the absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."*

10. In the light of the above, this court has no other option except

concluding that the petitioner is entitled for payment of reasonable interest on the delayed payment of DCRG amount of Rs.2,13,477/- with effect from 16.10.2002 i.e., the date on which the disciplinary proceedings initiated against the petitioner were initially concluded. The delay thereafter is directly attributable to the respondents and therefore, the respondents are bound to compensate the petitioner for the said period.

11. Accordingly, the writ petition is partly allowed, directing the respondents to pay interest at the rate of 6% per annum on Rs.2,13,477/- with effect from 16.10.2002 till 29.03.2010 in terms of Rule 45(a) of the Tamil Nadu Pension Rules, as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions, if any, shall stand closed.

21.01.2025

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1. Government of Tamil Nadu,
Represented by Principal Secretary to Government,

Revenue Department, Secretariat, Chennai – 600 009.

2. The Principal Commissioner and Commissioner of Revenue Administration, Chepauk, Chennai – 600 005.

3. The Accountant General (A&E), Tamil Nadu, Chennai – 600 018.

MUMMINENI SUDHEER KUMAR, J.

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