

(2012) 02 MAD CK 0077
In the Madras High Court
Case No : Writ Petition No. 29182 of 2011

M. Rajamani

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 16-02-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21

Citation : (2012) 02 MAD CK 0077

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : N. Subramaniam, for the Appellant; R. Ravichandran A.G.P, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. Petitioner prays for issuance of writ in the nature of mandamus, to direct the respondents to pay to the petitioner interest on the retiral benefits

i.e., Rs. 2,52,351/-(Rupees Two lakhs fifty two thousand and three hundred and fifty one only) due to the petitioner under the unutilised leave and

Rs. 4,16,192/-(Rupees Four lakhs sixteen thousand and one hundred and ninety two only) due to the pension arrears in view of pension for the

period from 01.10.2004 to 12.11.2009 and from 30.09.2004 to 02.03.2010. In support of the writ petition, it is pleaded that petitioner joined as

Assistant Engineer in the Tamilnadu Highways Department of Tamilnadu on 10.11.1971. The petitioner was promoted as Assistant Divisional

Engineer on 02.08.1996, and attained the age of superannuation on 30.06.2004.

2. The petitioner was placed under suspension during disciplinary proceeding which was pending against the petitioner.

3. The disciplinary proceeding against the petitioner were withdrawn, and the petitioner was allowed to retire with effect from 30.06.2004 vide order G.O. Ms. No. 152 dated 26.08.2009.

4. The retiral benefits of the petitioner were paid to him only on 12.11.2009. Though the amount was due and payable to the petitioner on the date of retirement i.e on 30.06.2004.

5. The respondents at the time of release of payment did not pay interest even though in view of withdrawal of the charge sheet against the petitioner, amounted to with holding of retiral benefit due to the petitioner without any justification.

6. The petitioner, prays that he may be granted interest on the delayed payment of the retiral benefits. The facts go uncontroverted, as no counter has been filed.

7. In support of the contention that the petitioner is entitled to interest on the delayed payment of pensionary benefits. Learned counsel for the petitioner placed reliance on the judgment of Hon"ble Supreme Court in S.K. Dua Vs. State of Haryana and Another, wherein the Hon"ble Supreme Court was pleased to lay down as under.

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 absence 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.

Learned counsel also placed reliance on the judgment of this court in P.V. Mahadevan Vs. Secretary to Government, Housing and Urban

Development Department and another, 2011 (7) MLJ 1336.

8. The petitioner, has thus succeeded in proving, that he is entitled to interest on the delayed payment as claimed.

9. For the reasons stated, this writ petition is allowed. Writ in the nature of mandamus is issued directing the respondents to pay interest at the rate

of 12% simple interest on the delayed payment for the period claimed by the petitioner. Payment to be released to petitioner within two months of receipt of certified copy of this order. No costs.