

(2021) 01 KL CK 0602
In the High Court Of Kerala
Case No : Writ Petition (C) No. 33134 Of 2017

V.S. Vijayan

APPELLANT

Vs

Kerala State Electricity Board Limited And Ors

RESPONDENT

Date of Decision : 28-01-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 01 KL CK 0602

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : Shameena Salahudheen, S. Simy, M.K. Thankappan

Final Decision : Disposed Of

Judgement

1. The petitioner, who is a retired Assistant Executive Engineer, has filed this writ petition seeking to sanction and disburse retirement benefits due to the petitioner including pension in full, Death cum Retirement Gratuity, Commuted Value of Pension, Pension Arrears and DR arrears (Pension) and other attendant benefits attached thereto, at the earliest, within a time frame fixed by this Court. The petitioner also seeks payment of penal interest at market rate for the delay caused in payment of terminal benefits.
2. The petitioner states that during his stint as Assistant Engineer in Electrical Section, Maharajas College, Ernakulam, the Anti Power Theft Squad (APTS) conducted an inspection in the premises of a consumer of KSEB and detected power theft. Sequentially, the petitioner was served with Ext.P4 seeking explanation for delay in detecting the power theft. The petitioner submits that the consumer in question had filed a writ petition challenging the proceedings pursuant to APTS inspection and this Court as per Ext.P2 judgment directed that a revised bill shall be issued limiting the

assessment to two years and the KSEB complied with the judgment. According to the petitioner, without challenging the judgment and without

initiating disciplinary action against the petitioner, the respondents are estopped from proceeding against the petitioner.

3. The petitioner would submit that during the pendency of this writ petition, the respondents have paid the terminal benefits and the petitioner hence is

prosecuting the writ petition only for payment of interest for the delayed payment of terminal benefits.

4. Relying on the judgment of this Court in O.P.(CAT) No.380/2020, the learned counsel for the petitioner urged that the petitioner is entitled to be

paid interest at market rate for the period of delay in paying terminal benefits. The learned Standing Counsel, on the other hand, relied on the judgment

of this Court in Xavier v. Kerala State Electricity Board [1979 KLT 80 (FB)] and contended that the KSEB has issued charge memo to the petitioner

and can still proceed against the petitioner.

5. Heard.

6. As all the terminal benefits have been paid to the petitioner, the question remaining is as to payment of interest for the delayed disbursement of terminal benefits.

7. The APTS conducted a surprise check in the premises of a consumer on 23.01.2012 and found power theft. Gross irregularities were noted in the

meter reading, Tariff applicable and actual consumption. The irregularities were assessed for the period from January, 2008. The low consumption

was as a result of installation of a faulty meter during the tenure of the petitioner. In W.P. (C)No.17975/2014 filed by the consumer, this Court found

that there was failure on the part of the authorities of KSEB.

8. Explanation was called for from the petitioner as per Ext.P4, on 21.01.2016. The petitioner gave a reply on 22.02.2016. However, before initiation

of departmental enquiry, the petitioner retired on superannuation from the KSEB. The delay in payment of terminal benefits occurred in these

circumstances.

9. In the circumstances of the case, this Court does not deem it a fit case to award interest to the petitioner, in exercise of powers under Article 226

of the Constitution of India.

The writ petition is accordingly disposed of.