

S.Babu, and ors. Vs. the Assistant General Manager, and ors.

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Court : Chennai

Decided On : Aug-16-2010

Judge : S.Tamilvanan, J.

Acts : Constitution Of India - Article 226

Appeal No. : W.P.Nos.3467 to 3469 of 2008

Appellant : S.Babu, and ors.

Respondent : The Assistant General Manager, and ors.

Advocate for Def. : Mr.R.T.Doraisamy, Adv.

Advocate for Pet/Ap. : Mr.V.Jayaprakash, Adv.

Judgement :

1. These writ petitions have been filed under Article 226 of the Constitution of India, seeking an order in the nature of writ of Mandamus, directing the respondents to pay the petitioners, a sum of Rs.28,922/-, Rs.38,909/- and Rs.21,613/- respectively towards interest for the delayed payment of provident fund, gratuity and the commutation payable to the petitioners on the date of reliving from services.
2. Considering the questions of law involved in all these writ petitions, common order is being passed.

3. It is an admitted fact that these petitioners are retired employees of the State Bank of India. S.Babu, petitioner in W.P.No.3467 of 2008, seeks direction to the respondents to pay a sum of Rs.28,922/- towards interest for the delayed payment of provident fund, gratuity and the commutation payable to him on the date of reliving from his service; K.Manoharan, petitioner in W.P.No.3468 of 2008, seeks direction to the respondents, to pay a sum of Rs.38,909/- towards interest for the delayed payment of provident fund, gratuity and the commutation payable to him on the date of reliving from his service and A.Shanmugam, petitioner in W.P.No.3469 of 2008, seeks direction to the respondents, to pay a sum of Rs.21,613/- towards interest for the delayed payment of provident fund, gratuity and the commutation payable to him on the date of reliving from his service.

4. Mr.V.Jayaprakash, learned counsel appearing for the petitioners submitted that the petitioners are entitled to claim interest since their retrial benefits were not paid by the respondents in time. On the other hand, Mr.R.T.Doraisamy, learned counsel appearing for the first respondent submitted that the amount claimed by the petitioners are not correctly calculated and hence the same could not be paid by the respondents.

5. According to the learned counsel appearing for the first respondent, S.Babu, the petitioner in W.P.No.3467 of 2008 was paid provident fund with delay of 80 days and there was a grace period of 40 days and therefore he is entitled to claim interest only for the 40 days. Similarly for payment of gratuity, he was entitled to claim only for six days and for commutation of pension for 58 days, which comes totally at Rs.6,695/-, whereas he claimed an exorbitant amount of Rs.28,922/-.

6. Similarly K.Manoharan, petitioner in W.P.No.3468 of 2008 is entitled to claim only a sum of Rs.6,634/-, however he has claimed an exorbitant sum of Rs.38,909/- towards interest and A.Shanmugam, petitioner in W.P.No.3469 of 2009, is entitled to claim only a sum of Rs.6,215, however he has claimed an exorbitant sum of Rs.21,613/- towards interest. The said facts are available in the counter filed by the first respondent.

7. Mr.R.T.Doraisamy, learned counsel for the first respondent submitted that the respondents could not pay the interest since the petitioners have claimed

exorbitant amount of interest. However, this Court could not accept the aforesaid defence. If the amount payable towards interest is lesser amount than the amount claimed by the petitioner, the said amount could have been returned to the petitioners as per the calculation made by the respondents. However, even after filing these writ petitions, the respondents have not settled the amount due and payable to the employees, which is the duty of any employer. If it is not paid in time, the retired employees have got right to claim interest. Accordingly, this Court held that the petitioners are entitled to claim interest at the reasonable rate of 10% per annum for the amount due and payable.

8. Mr.R.T.Doraisamy, learned counsel appearing for the first respondent submitted that S.Babu, petitioner in W.P.No.3467 of 2008 had approached the respondents by his representation dated 22.12.2007, K.Manoharan, petitioner in W.P.No.3468 of 2008 had approached the respondents by his representation dated 13.12.2007 and A.Shanmugam, petitioner in W.P.No.3469 of 2008 had approached the respondents by his representation dated 27.12.2007. Since, the amount was not settled to the petitioners they are entitled to claim interest from the aforesaid date of their written representation till the date of actual payment is made and the dues are settled.

9. In the result these writ petitions are disposed of accordingly the respondents are directed to pay a sum of Rs.6,695/- with interest at the rate of 10% per annum from the date of his representation dated 22.12.2007 to S.Babu, the petitioner in W.P.No.3467 of 2008 and a sum of Rs.6,634/- with interest at the rate of 10% per annum from the date of his representation dated 13.12.2007 to K.Manoharan, the petitioner in W.P.No.3468 of 2008 and a sum of Rs.6,215/- with interest at the rate of 10% per annum from the date of his representation dated 27.12.2007 to A.Shanmugam, the petitioner in W.P.No.3469 of 2008, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

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