

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29..02..2008

Coram:

The Honourable Mr.Justice P.K. MISRA
and
The Honourable Mr.Justice K.CHANDRU

W. P. No. 14378 of 2003

1. Union of India
Rep. by Chief Secretary to Government
Government of Pondicherry
Pondicherry
2. Secretary to Government
Finance Department
Chief Secretariat Building
Pondicherry
3. Secretary to Government
Department of Personnel and
Administrative Reforms
Chief Secretariat Buildings
Pondicherry
4. Director of Accounts and Treasuries
Directorate of Accounts and Treasuries
Pondicherry Petitioners

-vs-

1. The Registrar
Central Administrative Tribunal
Chennai - 104
2. V. Ganesan ... Respondents

Petition under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records of the first respondent Tribunal pertaining to the order dated 27.3.2003 passed in O.A. No. 119 of 2003 and quash the same.

For Petitioner : Mr. Syed Mustafa, AGP (P)
For Respondent 2 : No appearance
1 : Court

ORDER

(Order of the Court was made by K. CHANDRU, J.)

Heard the arguments of Mr. Syed Mustafa, learned Additional Government Pleader (Puducherry) and have perused the records.

2. The Union of India, represented by the Chief Secretary to Government of Puducherry and three others have filed the present writ petition challenging the order of the first respondent Central Administrative Tribunal [for short, 'CAT'] dated 27.3.2003 made in O.A. No. 119 of 2003.

3. The second respondent herein moved the CAT with the Original Application by stating that full pension was not given to him from the date of his retirement, viz., on 31.8.2001. When the application was moved, the CAT initially directed the writ petitioners to consider the case of the second respondent. Thereafter, the CAT in O.A. No. 261 of 2002 passed an order dated 22.4.2002 in which it was held that the second respondent was entitled to get full pension and other retiral benefits and the petitioners were directed to comply with the same. The CAT found that on the date of retirement of the second respondent, he was not facing any disciplinary proceedings and no charge-sheet was pending against him. Though the retiral benefits should have been disbursed on 30.8.2001 and that the order of the CAT was dated 22.4.2002, the second respondent was paid his retiral benefits only on 22.7.2002.

4. Therefore, the second respondent filed another application in O.A. No. 119 of 2003 seeking for interest payment for the delayed payment. The CAT found that there was inordinate delay in disbursing the retiral benefits and there was no reasonable cause for the delay in making the payment. Merely because the order of the CAT was complied with on 08.8.2002, it cannot be said that he was not eligible for interest on the delayed payment. It is against this order, the present writ petition has been filed.

5. This Court, at the time of admission, granted interim stay but, however, it is stated that if ultimately, the writ petition is dismissed, the amount of interest will be paid to the second respondent.

6. The CAT found as a matter of fact that there was a delay in ordering interest. Though the learned Additional Government Pleader (Puducherry) representing the petitioners argued that there was no rule providing for interest for delayed payment of pension, we would like to bring to the notice of the recent decision of the Supreme Court in S.K. Dua v. State of Haryana [2008 AIR SCW 689]. The relevant passage

found in paragraph 11 of the said judgment may be usefully extracted:

Para 11: ".... 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."

7. In that view of the matter, we do not think that the this is a fit case to be entertained and the order of the CAT does not call for any interference. Accordingly, the writ petition fails and will stand dismissed. The writ petitioners are directed to comply with the order of the CAT within a period of eight weeks from the date of receipt of a copy of this order. However, there will be no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Registrar
Central Administrative Tribunal
Chennai - 104
2. The Chief Secretary to Government
Union of India
Government of Pondicherry
Pondicherry

3. The Secretary to Government
Finance Department
Chief Secretariat Building
Pondicherry

4. The Secretary to Government
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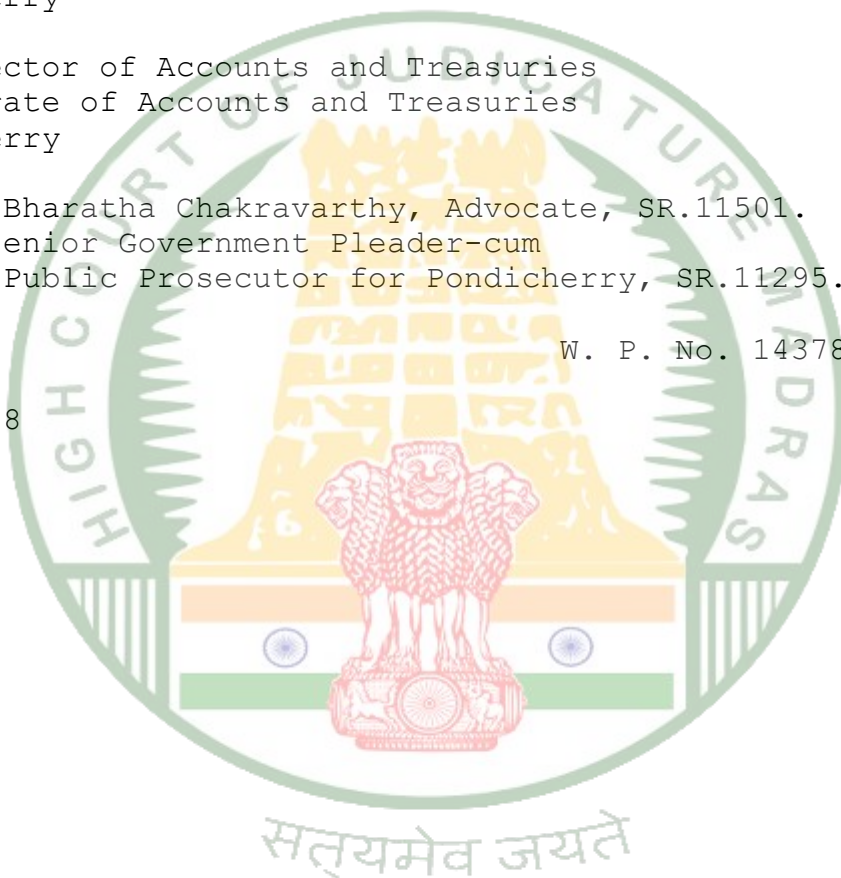
5. The Director of Accounts and Treasuries
Directorate of Accounts and Treasuries
Pondicherry

1 cc To Mr.D.Bharatha Chakravarthy, Advocate, SR.11501.

1 cc To The Senior Government Pleader-cum
-Senior Public Prosecutor for Pondicherry, SR.11295.

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NTK(CO)
RVL 30.04.2008



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