

DR. A. SELVARAJ

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v.

C.B. M. COLLEGE AND ORS.

(Civil Appeal No. 1698 of 2022)

MARCH 04, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Retirement dues: Interest on delayed payment of retirement dues – Delay in payment of retirement dues to the Appellant-Assistant Professor working in the respondent- college despite various correspondence and representation – During the pendency of writ petition, retirement dues were settled – Claim for interest on delayed payment – Held: As there was delay in making the payment of retirement benefits and settling the dues for which the appellant was not at all responsible, he is entitled to the interest on the delayed payment – Delay/latches.

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Allowing the appeal, the Court

HELD: The Division Bench of the High Court had observed in the impugned judgment and order that the appellant was entitled to the interest on the delayed payment. However, there was an inter se dispute between the Secretary, Management and the Government as to who was responsible for the delay in making the payment to the appellant and therefore, he was denied the interest on delayed payment though entitled to. As such pursuant to the interim order, the Government did conduct an enquiry and fastened the liability on the college and observed that the former Secretary was responsible for the delay in disbursal of the terminal benefits to the original writ petitioner. In that view of the matter, subject to the further final order that may be passed by the Government, the College/Management is first liable to pay the interest on the delayed payment of retirement dues subject to the final decision, which may be taken by the Government, after hearing the Management and the former Secretary. However, because of the inter se dispute between the Management, Secretary and the Government on who is responsible for the delay in making the payment and/or settling the dues, the retired employee should not be made to suffer for no fault of his.
[Para 4][752-C-F]

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- A CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1698
Of 2022.

From the Judgment and Order dated 26.10.2021 of the High Court of Judicature at Madras in W. A. No.704 of 2020.

- B M. Gireesh Kumar, Ankur S. Kulkarni, Ms. Puspita Basak, Advs.
for the Appellant.

P. Wilson, Sr. Adv., G. Sankaran, K. V. Jagdishvaran, Ms. G. Indira,
Ms. Sree Priya, Nishe Rajen Shonker, Ms. Anu K. Joy, Alim Anvar,
Advs. for the Respondents.

- C The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 26.10.2021 passed by the High Court of Judicature at Madras in Writ Appeal No.704 of 2020 by which the High Court has

- D disposed of the said appeal without granting any relief which was claimed, the original appellant has preferred the present appeal.

2. That the appellant herein is a retired Associate Professor of Chemistry. He retired from the respondent No.1 – C.B.M. College, Coimbatore w.e.f. 30.06.2011. That the institution in which he was serving

- E is an aided college. There was a delay in paying the retirement/pensionary benefits, which was not paid despite various correspondences and the representations. Ultimately, the appellant was constrained to file the writ petition before the High Court by way of Writ Petition No.3224 of 2013. At the time of hearing of the aforesaid writ petition, it was submitted

- F that during the pendency of the writ petition the entire terminal benefits have been settled. Therefore, the only issue remained was in respect of the interest on the delayed payment of pensionary benefits. Therefore, it was requested on behalf of the appellant before the learned Single Judge of the High Court that the action be taken against the erring officers for the delay caused in settling his dues and that he be paid interest on the

- G delay in payment of retiral benefits. The learned Single Judge disposed of the writ petition by order dated 15.07.2020 relegating the petitioner – the appellant to make a representation to the Director of Collegiate Education to take appropriate action against the erring officers who had delayed in settlement of the payment in time. The Director of Collegiate Education was directed to consider the same and pass appropriate order

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in accordance with law after hearing the aggrieved persons as expeditiously as possible. However, as no order was passed in respect of the interest on the delayed payment of the retirement benefits, the original writ petitioner preferred the appeal before the Division Bench by way of Writ Appeal No. 704 of 2020. The Division Bench passed the following interim order on 09.08.2021:-

“The third respondent herein/The Regional Joint Director of Collegiate Education, Coimbatore, is directed to go to the first respondent/C.B.M College, Coimbatore and verify the records, in the light of the counter affidavits filed by the respondents 1 to 3, the third respondent is also directed to verify as to whether the writ petitioner is paid with all his retiral benefits and if so, whetherthey are disbursed immediately or with the delay. If there is any delay, the third respondent is further directed to report before this Court as to the person who is responsible for the said delay and who is liable to pay the interest for the belated payment to the writ petitioner/appellant.”

2.1 That thereafter when the appeal was taken up for further hearing on 26.10.2021, it was reported that the Government has conducted an enquiry and fastened the liability on the College and observed that oneShri C.M. Ramaraj, the former Secretary of the College was responsible for the delay in disbursement of terminal benefits to the original writ petitioner. However, it was pointed out that the former Secretary, Shri C.M. Ramaraj was unwell and therefore he could not file objections to the enquiry report. Thereafter the Division Bench of the High Court has disposed of the said appeal by observing that it is ultimately for the Government to take an appropriate decision based on the enquiry report. However, the Division Bench of the High Court also observed that though the appellant – original writ petitioner shall be entitled to the interest on the delayed payment, however, the Government is yet to take a call on who was responsible for the delay and the Division Bench of the High Court has not passed any further order.

2.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court in not passing any order in respect of the interest on the delayed payment of retirement benefits, the original appellant – original writ petitioner has preferred the present appeal.

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- A 3. We have heard the learned counsel appearing on behalf of the appellant, the learned counsel appearing on behalf of the Management/ Trust and Shri P. Wilson, learned Senior Advocate appearing on behalf of the respondent No.1.
- B 4. Having heard learned counsel for the respective parties, we are of the opinion that as there was a delay in making the payment of retirement benefits and settling the dues for which the appellant employee is not at all responsible, he is entitled to the interest on the delayed payment. Even the Division Bench of the High Court has also observed in the impugned judgment and order that the appellant is entitled to the interest on the delayed payment.
- C However, there is an inter se dispute between the Secretary, Management and the Government as to who is responsible for the delay in making the payment to the appellant and therefore, he has been denied the interest on delayed payment though entitled to. It is to be noted that as such pursuant to the interim order dated 09.08.2021, the Government did conduct an enquiry and fastened
- D the liability on the college and observed that the former Secretary, Shri C.M. Ramaraj was responsible for the delay in disbursal of the terminal benefits to the original writ petitioner. In that view of the matter, subject to the further final order that may be passed by the Government, the College/Management is first liable to pay the interest on the delayed
- E payment of retirement dues subject to the final decision, which may be taken by the Government, after hearing the Management and the former Secretary. However, because of the inter se dispute between the Management, Secretary and the Government on who is responsible for the delay in making the payment and/or settling the dues, the retired employee should not be made to suffer for no fault of his.
- F 5. In view of the above discussion and for the reasons stated above, present Appeal Succeeds. The impugned judgment and order passed by the Division Bench of the High Court and that of the learned Single Judge denying the interest on delayed payment of retirement benefits to the appellant is hereby quashed and set aside. The Management
- G / Trustees / College are hereby directed to pay the interest on the delayed payment of retirement benefits to the Appellant, from the date of retirement till the actual payment was made, subject to the final decision that maybe taken by the Government on the objections to the enquiry report that may be filed by the former Secretary and/or the College and it will be open for the College / Management / Trustees to recover the
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same from the person, who, ultimately is held to be responsible for the delay. The payment of interest on delayed payment of retirement benefits to be paid strictly within a period of six weeks from today. In the meantime, the Government to pass a final order on the enquiry report after giving an opportunity to the College / Management / former Secretary. It goes without saying that it would be open to the aggrieved party to challenge the said decision before the appropriate forum.

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Present appeal is accordingly allowed to the aforesaid extent. Pending applications, if any, also stand disposed of.

Devika Gujral

Appeal allowed.