Supreme Court of India

State Of Kerala And Ors vs M. Padmanabhan Nair on 17 December, 1984

Equivalent citations: 1985 AIR 356, 1985 SCR (2) 476

Author: V Tulzapurkar

Bench: Tulzapurkar, V.D.

PETITIONER:
STATE OF KERALA AND ORS.

Vs.

RESPONDENT:
M. PADMANABHAN NAIR

DATE OF JUDGMENT17/12/1984

BENCH:
TULZAPURKAR, V.D.
BENCH:
TULZAPURKAR, V.D.
ERADI, V. BALAKRISHNA (J)

CITATION:
1985 AIR 356 1985 SCR (2) 476
1985 SCC (1) 429 1984 SCALE (2)959

ACT:

Service law--Liquidated damages by way of penal interest for delay in payment of pension and gratuity due-State Government is vicariausly liable to pay interest at the current market rate till actual payment for the culpable neglect of the Treasury Officer to discharge his duty of issuing the Last Pay Certificate under Rule 186 of the Treasury Code-Supreme Court cannot interfere and grant enhanced rate of interest in the absence of a cross objection against lower rate of interest allowed by the trial Court than claimed and there by acquiesing in the decree.

HEADNOTE:

The respondent retired from the service of the appellant State on 19.5.1973. His pension and gratuity were ultimately paid to him on 14.8.75 i e. after a delay of more than two years and three months. A suit for the recovery of interest at the rate of 12% per annum by way of liquidated damages for the delayed payment was decreed by the District Court allowing interest at 6% only. In appeal by the State (there being no cross appeal) the High Court confirmed the decree. Hence the special leave petition.

Dismissing the petition, the Court,

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HELD: 1:1 Pension and gratuity are no longer any bounty to be distributed by the government to its employees on their retirement but have become under the decisions of the Supreme Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment [477C-D]

1.2 In the instant case, though the respondent claimed 12% interest and unfortunately District Court allowed only 6% per annum, since the respondent acquiesced in his claim being decreed at 6% by not preferring any cross objections in the High Court, it would be improper for the Supreme Court to enhance the rate to 12% per annum. [478C-D]

1.3 Under Rule 186 of the Treasury Code a duty is cast on the Treasury officer to grant to every retiring Government servant the last pay certificate which, in this case had been delayed by the concerned officer for which neither any justification or explanation had been given. The claim

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for interest is therefore in order and the State Government has rightly been saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the LPC.

[478A-B,D]

JUDGMENT:

CIVIL APPELLATE JURISDICTlON: Special Leave Petition Civil No. 9425 of 1984.

From the Judgment and Order dated 1.11.83 of the Kerala High Court in A.S. No. 10 of 1979.

P.K. Pillai for the petitioners.

The Order of the Court was delivered by TULZAPURKAR, J. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment .

Usually the delay occurs by reason of non-production of the L.P.C. (Last Pay Certificate) and the N.L.C. (No Liability Certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed atleast a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to diriect that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement.

The instant case is a glaring instance of such culpable delay in the settlement of pension and gratuity claims due to the respondent who retired on 19.5.1973. His pension and gratuity were ultimately paid to him on 14.8.1975, i e., more than two years and 3 months after his retirement and hence after serving lawyer's notice he filed a suit mainly to recover interest by way of liquidated damages for delayed payment. The appellants put the blame on the respondent for delayed payment on the ground that he had not produced the requisite L.P.C. (last pay certificate) from the Treasury Office under Rule 186 of the Treasury Code. But on a plain reading of Rule 1 86, the High Court held-and in our view rightly-that a duty was cast on the treasury Officer to grant to every retiring Government servant the last pay certificate which in this case had been delayed by the concerned officer for which neither any justification nor explanation had been given The claim for interest was, therefore, rightly, decreed in respondent's favour.

Unfortunately such claim for interest that was allowed in respondent's favour by the District Court and confirmed by the High Court was at the rate of 6 per cent per annum though interest at 12 per cent had been claimed by the respondent in his suit. However, since the respondent acquiesced in his claim being decreed at 6 per cent by not preferring any cross objections in the High Court it could not be proper for us to enhance the rate to 12 per cent per annum which we were otherwise inclined to grant.

We are also of the view that the State Government is being rightly saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the L.P.C. but since the concerned officer had not been impleaded as a party defendant to the suit the Court is unable to hold him liable for the decretal amount. It will, however, be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public.

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S.R.                                        Petition dismissed,
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