

**(2013) 05 KL CK 0024**

**High Court Of Kerala**

**Case No:** Writ Petition (C) . No. 22195 of 2009 (T)

V.V. Gopalan

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

**Date of Decision:** May 24, 2013

**Hon'ble Judges:** Thomas P. Joseph, J

**Bench:** Single Bench

**Advocate:** K.E. Hamza and Sri. V.K. Gopalakrishnan, for the Appellant; A. Lowsy, Government Pleader for R1, for the Respondent

**Judgement**

Thomas P. Joseph, J.

The petitioner retired as Headmaster from the Seethi Sahib Higher Secondary School, Taliparamba on attaining superannuation on 30.06.2007. His grievance is that he was given provisional pension and D.C.R.G. but provisional D.C.R.G. was not disbursed so far. His retiral benefits such as full pensionary benefits, commuted value of pension, Festival Allowances for the year 2006-2007, D.A. Arrears, Family Benefit Scheme, salary for the period from 17.11.2005 to 06.12.2005, Group Insurance and Surrender benefits were not sanctioned till date. According to the petitioner, to his information, there is no departmental or judicial proceeding pending against him. Hence this Writ Petition seeking a direction to the respondents to sanction full pensionary benefits to the petitioner within a time frame to be fixed by this Court with interest at market rate. The learned Government Pleader on instruction has submitted that the V.A.C.B. has charge sheeted the petitioner and that C.C. No. 2 of 2011 is pending in the Court of learned Special Judge and Enquiry Commissioner, Kozhikode (for short, "the Special Judge") and that the said case is posted on 01.06.2013.

2. Since the learned Special Judge has taken cognizance of the offences as is revealed from the fact that the case is taken on file and numbered as aforesaid, Rule 3A(a) of Part III of the Kerala Service Rules (for short, "the Rules") would stand in the way of the petitioner claiming gratuity or death-cum-retirement gratuity until

conclusion of such proceeding or issue of final orders thereon. Hence petitioner cannot claim gratuity or death-cum-retirement gratuity at this stage.

3. But, going by Rule 3A(a) of the Rules referred above, bar of payment during pendency of departmental/judicial proceeding and until final orders are passed thereon is only against payment of gratuity or death-cum-retirement gratuity. Other benefits, if any due to the petitioner and if otherwise he is entitled, are to be paid to him.

Resultantly this Writ Petition is disposed of as under:

- (i) Respondents are directed to pay all monetary benefits including retiral benefits, if not paid (or, excluding what is already paid) to the petitioner but not gratuity or death-cum-retirement gratuity as early as possible, at any rate within four (4) months from the date on which a copy of this judgment is received.
- (ii) Petitioner shall produce a copy of the Writ Petition and this judgment before the respondents as early as possible.