

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1443 of 2015
and
M.P.No.1 of 2015

The State of Tamil Nadu,
rep. By its Principal Secretary to Government,
Animal Husbandry, Dairying and
Fisheries Department,
Secretariat, Chennai 9. ... Appellant/Respondent

versus

Dr.J.Doraiswami ...Respondent/Petitioner

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 10.9.2014 in W.P.No.19075 of 2013.

W.P.No.19075 of 2013 : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent herein in G.O.(2D) No.30, Animal Husbandry, Dairying and Fisheries (AH1) Department dated 12.4.2013 and quash the same to the limited extent of the condition imposed therein that the petitioner's retirement from service on the date of superannuation on 31.12.2012 A.N. shall be without prejudice to the criminal case pending against him and to consequently direct the respondent herein to grant all consequential retirement and pensionary benefits with interest on the delayed payment and to award costs.

For appellant : Mrs.Srijayanthi,
Special Government Pleader

For Respondent : Mr.M.Ravi

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The direction given by the learned Single Judge to pay interest to the respondent @ 6% p.a. from the date of superannuation till actual payment, made the State to file this intra court appeal.

2. While the respondent was serving as Director, Institute of Veterinary Preventive Medicine, Ranipet, he was placed under suspension by order dated 31 December 2002, pending enquiry into the grave charges. The respondent was later permitted to retire on 31 December 2012, without prejudice to the disciplinary proceedings. Since charge memo was not issued even after eight years, the respondent filed a Writ Petition in W.P.No.24763/2010, challenging the order of suspension and the subsequent order retaining him in service for the purpose of holding disciplinary proceedings. The Writ Petition was dismissed. The related writ appeal was allowed by the Division Bench by judgment dated 4 July 2012. The Division Bench set aside the order of suspension without expressing any opinion on the merits of the disciplinary proceedings. Thereafter, the Government revoked the order of suspension, permitting the respondent to retire from service. The respondent was given the benefits long thereafter. The respondent filed Writ Petition in W.P.No.19075 of 2013 primarily for the purpose of giving him the pensionary benefits with interest. The learned Single Judge directed the Government to pay interest @ 6% p.a.

3. The only question that arises for consideration is whether the learned Single Judge was correct in directing the appellant to pay interest from the actual date of superannuation.

4. There is no dispute that only pursuant to the judgment dated 4 July 2012 in W.A.No.938 of 2011, the Government revoked the suspension and permitted the respondent to retire from service. Even though the respondent prayed for payment of interest in W.A.No.938 of 2011, the fact remains that the Division Bench was not pleased to grant such a relief. The prayer is therefore deemed to have been rejected.

5. The respondent, by way of second Writ Petition, wanted the appellant to pay interest from the date of superannuation. There is no question of granting interest from the date of superannuation in view of the limited direction given in W.A.No.938/2011. The claim for interest from the actual date of superannuation has already been rejected deeming by the Division Bench. The respondent is therefore

not entitled to claim interest from the date of superannuation. The respondent is entitled to interest only from the date of Government Order in G.O. 2D No.(30), Animal Husbandry, Dairying and Fisheries (AH-1) Department. The said order was issued on 12 April 2013. The liability of the State is only to pay interest from the said date. We are therefore of the view that the learned Single Judge was not correct in directing the appellant to pay interest from the date of superannuation.

6. In the result, the order passed by the learned Single Judge is modified. The appellant is directed to pay interest @ 6% to the respondent with effect from 12 April 2013, within a period of eight weeks from the date of receipt of a copy of this judgment.

7. The writ appeal is allowed to the extent indicated above. No costs. Consequently, connected M.P.s, are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tar

To

1.The Principal Secretary to Government,
Animal Husbandry, Dairying and
Fisheries Department,
Secretariat, Chennai 9.

+1cc to Mr.M.Ravi, Advocate, S.R.No.52105
+1cc to the Government Pleader, S.R.No.52038

W.A.No.1443 of 2015

GR(CO)
CA(09/10/2015)

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