

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.12191 of 2015

M.Perumal

... Petitioner

vs.

- 1.Government of Tamil Nadu,
Rep., by Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
- 3.The Commissioner,
Salem City Municipal Corporation,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, directing the first respondent to settle the terminal benefits like gratuity, P.F with all other monetary benefits along with 18% interest per annum in the light of this Hon'ble Court order dated 02.08.2010 in W.P.No.13119 of 2009.

For Petitioner : Mr.A.Esakkiappan

For Respondents : Ms.M.E.Raniselyam

Addl.Govt.Pleader for R1 and R2
Ms.K.Bhuvaneswari for R3

O R D E R

The petitioner was an unskilled worker. His date of superannuation was on 31.01.2012. However, by an order dated 30.01.2012 he was placed under suspension and not permitted to retire from service on the ground that a criminal case was pending in Crime No.1568 of 2011.

2. Thereafter, the case was tried by the Mahila Court, Salem in C.C.No.387 of 2012 and the petitioner was acquitted by judgment dated 31.12.2013. Hence, the petitioner made representation to settle his terminal benefits by permitting him to retire in view of the judgment of the Court referred to above.

3. When the matter came up for admission on 24.04.2015, this Court passed the following order:-

"Mrs.T.P.Savitha, learned Government Advocate, takes notice for R1 & R2 and Mrs.K.Bhuvaneswari, learned counsel takes notice for R3.

2. The petitioner who was un- skilled worker in the 3rd respondent Corporation, reached the age of superannuation on 31.01.2012. But, he was not allowed to retire from service and he was retained in service, by orders dated 30.01.2012 and 31.01.2012 on the ground that a criminal case was pending in Crime No.1568 of 2011 on the file of the Sooramangalam Police Station, Salem District. Now, it is stated that the petitioner was acquitted in the criminal case in C.C.No.387 of 2012 on the file of the Mahila Court, Salem. After his acquittal, he made several representations from January 2014 onwards and the recent one is on 09.03.2015 to settle his terminal benefits. But, no order is passed. Hence, this writ petition is filed to settle the terminal benefits, as there is no bar now for settling the terminal benefits.

3. Post the matter on 12.06.2015 for orders. In the meantime, the respondents shall either file a counter affidavit or give written instructions so as to dispose of the matter, since the matter lies in a narrow compass. "

4. Today, the learned Standing Counsel for Salem Municipal Corporation has produced proceedings in Na.Ka.No.J1/3489/2011 dated 10.06.2015 permitting the petitioner to retire. Though an order is passed permitting him to retire, the petitioner is yet to be settled with the terminal benefits.

5. A Division Bench of this Court in the judgment reported in (2009) 3 MLJ 1 [Government of Tamil Nadu, rep. By the Secretary to Government, Revenue Department v. M.Deivasigamani], following paragraph No.14 of the judgment of the Supreme Court reported in (2008) 3 SCC 44 [S.K.Dua v. State of Haryana and another], has held that the delinquent employee is entitled to interest on belated payment of pension and other retiral benefits, even in the absence of statutory rules/administrative instructions or guidelines and he can make his claim for interest, under Part III of the Constitution, relying on Articles 14, 19 and 21 of the Constitution.

6. In view of the aforesaid facts, a direction is issued to the first respondent to settle the terminal benefits including gratuity. It is made clear that the petitioner is entitled to interest as per Rule 45-A of the Tamil Nadu Pension Rules for belated settlement of DCRG. It is also made clear that the petitioner is also entitled to interest on other terminal benefits including pension based on the judgment of the Division Bench of

this Court. The first respondent is directed to settle the same, within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

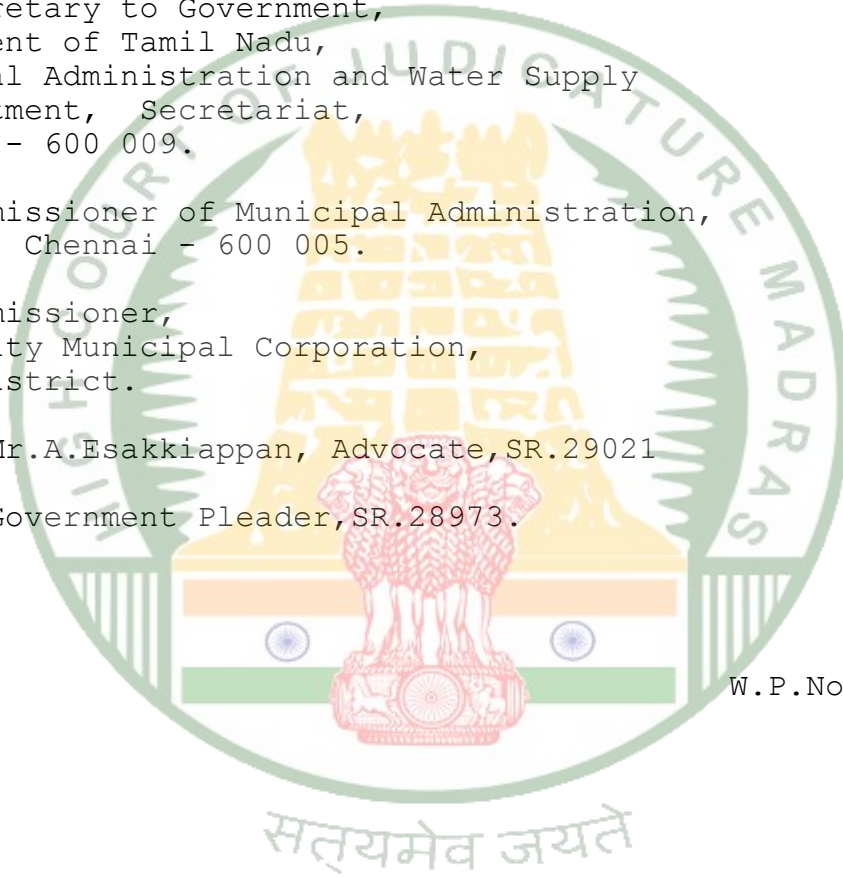
True Copy

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai - 600 009.
 - 2.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
 - 3.The Commissioner,
Salem City Municipal Corporation,
Salem District.
- +1 cc to Mr.A.Esakkiappan, Advocate,SR.29021
- +1 cc to Government Pleader,SR.28973.

Kgk(co)
krd 23/6



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