

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:27.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.20871 of 2012

Er.P.V.Balachandra Rao,
Corporation of Chennai,
New No.56, Old No.54, Mannappan St.,
Old Washermanpet,
Chennai-600 021. ... Petitioner

Vs.

The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for a writ of Mandamus, directing the respondent to release 25% of DCRG withheld i.e., Rs.58,505.45 plus increase, together with a reasonable interest at 18% for the last 14 years; also 18% interest on the delay of two years in the release of 75% of DRCG commutation and regular pension.

For Petitioner : Mr.AL.Namasivayam

For Respondent : Mr.C.Ravichandran
Standing Counsel

O R D E R

This Writ Petition has been filed by the petitioner seeking a writ of Mandamus, directing the respondent to release 25% of DCRG withheld i.e., Rs.58,505.45 plus increase, together with a reasonable interest at 18% for the last 14 years and also 18% interest on the delay of two years in the release of 75% of DRCG commutation and regular pension.

2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

3.The petitioner, who retired on 30.11.1998 has filed this petition, claiming withdrawal of his withheld DCRG amount, that too, only 25%. According to him, at the time of his retirement, there was no audit objection and he is eligible to receive the DCRG amount, but the audit objection was raised only during his service in the year 1997 and towards the same, he has remitted a sum of Rs.2,851/- as early as on 20.03.1997. After his retirement, the petitioner made a representation in the year 2000, where the Department itself has stated that there is no specific audit objections raised, through letter dated 19.02.2004. In spite of the same, he was given only 75% of the DCRG amount. Thereafter, he made several representations to the department for payment of the 25% DCRG amount to the tune of Rs.58,505.45, which has not been paid till date. The alleged audit objection is only to the tune of Rs.7,628/-. Admittedly, even according to the petitioner and the Government, he has already paid Rs.2851/- way back in the year 1997. There is no justification for the department for non payment of the 25% of the DCRG amount to the petitioner, after deducting the balance amount as per audit objection.

4.The petitioner should have been paid with the balance amount with interest for the delayed period as per the decision of the Hon'ble Supreme Court. Following the decision of the Hon'ble Supreme Court reported in 2000 (2) LLJ 253 [Vijay L.Mohrotra V. State of U.P.], this Court in W.P.13179 of 2007 [D.Ponnambalam V. The Commissioner, Corporation of Chennai, Chennai-600 003] dated 02.12.2013 in similar circumstances, had passed the order, wherein the respondent was directed to pay not only the withheld DCRG amount but also to pay the said amount with interest at the rate of 12% from the date of retirement till the date of receipt of a copy of the order.

5.The learned counsel for the respondent would contend that he has filed a detailed counter. But in the counter, it has been stated that there is an audit objection to the tune of Rs.7,628/- which was also admitted by the petitioner through his letter to the department dated 19.04.2007. It is further stated that the petitioner has neither chosen to give any explanation nor given any suggestions to deduct the same from his withheld DCRG amount.

6.The entire facts of the case shows the lethargic part of the Department and how a retired person has been dragged from pillar to post for receiving his pensionary benefits and the sufferings met out by him at the hands of those officers who would have settled the amount to the petitioner by way of deducting the same from the withheld amount. In view of the foregoing reasons, the petitioner is entitled for interest for the delay of non payment of pensionary benefits as per the decision of the Hon'ble Supreme Court and the order of this Court as stated supra. Accordingly, the Writ Petition is

disposed of, by directing the respondent to pay the entire amount of Rs.58,505/- with interest at the rate of 12% p.a., from the date of retirement till the date of disbursement of the said amount, within a period of six weeks from the date of receipt of the copy of the order. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

DP

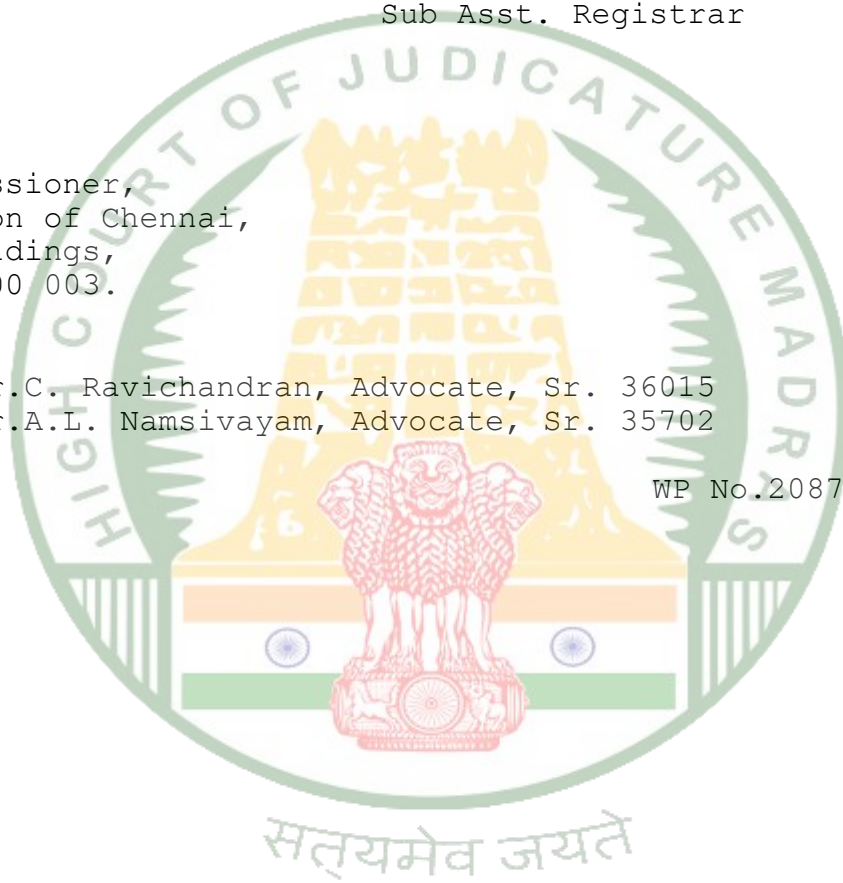
To

The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

1 cc to Mr.C. Ravichandran, Advocate, Sr. 36015
1 cc to Mr.A.L. Namsivayam, Advocate, Sr. 35702

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RJ (CO)
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