

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.25446 of 2013

R.Munusamy

.. Petitioner

/vs/

1.The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai.

2.The Director of Town Panchayats,
Kuralagam, Chennai.

.. Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents herein to grant interest at the rate of 12% per annum to the petitioner for the belated payment of pension and other terminal benefits from the date of superannuation viz., 30.06.2006 till the date of actual realisation viz., 27.04.2012.

For Petitioner : Mr.V.Vijay Shankar

For Respondents: Mrs.M.E. Raniselvam, AGP

O R D E R

The petitioner has come forward with this present writ petition for a mandamus directing the respondents herein to grant interest at the rate of 12% per annum to the petitioner for the belated payment of pension and other terminal benefits from the date of superannuation viz., 30.06.2006 till the date of actual realisation viz., 27.04.2012.

2. The case of the petitioner is that the petitioner who had retired on 30.06.2006, was served with two charge memos, dated 21.09.2005 and 29.06.2006 under Rule 17(b) of the Tamil Nadu Government Servant (Discipline and Appeal) Rules. After enquiry, the Enquiry Officer by his report dated 15.04.2009 stated that the charges against the petitioner were not proved. Ultimately, after a long gap, the first respondent has passed the Government Orders in G.O.Ms.No. 292, (MAWS (TP 4) Department, dated 02.08.2011 and G.O. (ten years) No.39, (MAWS

(TP4) Department, dated 13.02.2012, dropping the charges leveled against the petitioner. In this regard, on 27.04.2012, the Principal Accountant General had authorised for payment of all the petitioner's terminal benefits proposed by the second respondent. In spite of the authorisation, the terminal benefits have not been settled in favour of the petitioner. Hence, the petitioner has preferred the present writ petition.

3. Heard Mr.V.Vijay Shankar, learned counsel appearing for the petitioner and Mrs. M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents.

4. The issue involved in this writ petition is covered by various orders of this Court. In a decision of this Court in [P.Nagarathna Pandian v. Managing Director, Tamil Nadu Housing Board, 493, Anna Salai, Nandanam, Chennai 600 035 reported in (2010) 7 MLJ 577], it is held that the unreasonable delay in dropping the charges cannot be put against the petitioner and the respondents are bound to pay interest for the belated payment of pension and other terminal benefits. The relevant portion of the above cited decision reads thus:

"11.The reason stated by the respondents that only due to the pendency of the charge against the petitioner, payment of terminal benefits was delayed, cannot be accepted as the charge, which was found not proved was ultimately dropped. The delay in completing the disciplinary proceedings has already caused mental agony to the petitioner after reaching the age of superannuation. The retirement benefits payable as on 30.11.1998 was delayed for about six years for which the petitioner cannot be blamed. It is not the case of the respondents that the disciplinary proceeding was delayed at the instance of the petitioner. From the perusal of the typed set of papers filed, it is evident that the enquiry officer submitted his report stating that the charge was not proved. The said Enquiry Officer's report was submitted as early as on 31.08.1999. Even assuming that the pendency of the charge was not the reason for not paying the terminal benefits, there was unreasonable delay in dropping the charge, though the delay is explained in the counter affidavit. For no fault on the part of the petitioner, the petitioner cannot be penalised by denying interest for the belated payment of retirement benefits.

12.In view of the above findings and decisions of the Supreme Court and of this Court, the writ petition is allowed and the

impugned order is set aside. The second respondent is directed to pay the statutory interest for the gratuity amount, provident fund, special provident fund. For commutation of pension and surrender of earned leave, the second respondent is bound to pay interest for the belated payment as per the Government Order referred above. The second respondent is directed to comply with this order within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected Miscellaneous Petition is closed."

5. The finding in the above judgment is squarely applicable to the facts of the present case. Under such circumstances, the first respondent is directed to pay interest at the rate of 12% per annum to the petitioner for the belated payment of pension and other terminal benefits from the date of superannuation i.e. on 30.06.2006 till the date of actual realization i.e. on 27.04.2012.

With the above observations, the writ petition is allowed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ari

To

1.The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai.

2.The Director of Town Panchayats,
Kuralagam, Chennai.

1 cc to Mr.V. Vijay Shankar, Advocate, Sr. 68936

W.P.No.25446 of 2013

VGI (CO)
kk 29/12