IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.867 of 2017

1. The Secretary to Government,
   Health and Family Welfare Department,
   Fort St.George, Chennai-600 009.

2. The Director of Medical and
   Rural Health Services,
   Chennai-6. ... Appellants/Respondents

-Vs-

Dr.S.Narayanaswamy,
Deputy Director of Medical Services (Lep)(Retd.),
Government Hospital,
Dindigul, Dindigul District. ... Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.26133 of 2011 dated 05.07.2012.

W.P.No.26133 of 2011 : May be pleased to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Proceedings of the Director of Medical and Rural Health Services, Chennai-6 in Na.Ka.No.44725/KaPi2/1/2011 dated 20.09.2011 in rejecting the claim for interest on the belated payment of terminal benefits, quash the same and direct the respondents 1 and 2 to pay interest at the rate of 18% per annum on the terminal benefits from the date of Superannuation 21.12.2007 to actual date of disbursement of terminal benefits within short date that may be fixed by this Honourable Court.

For Appellants : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

For Respondent : Ms.G.Sridevi Chandran

JUDGMENT
(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This writ appeal has been filed against the order passed by this Court dated 05.07.2012 in W.P.No.26133 of 2011.

2.It appears that in connection with payment of terminal benefits to the respondent herein, there was a delay by the Government of Tamil Nadu. The respondent approached this Court by way of filing a writ petition in W.P.No.26133 of 2011 praying to quash the proceedings of the second appellant herein dated 20.09.2011 rejecting the claim for interest on the belated payment of terminal benefits and for a direction to pay interest at the rate of 18% per annum on the terminal benefits from the date of superannuation to the actual date of disbursement, to the respondent. This Court, by order dated 05.07.2012, directed the appellants to pay interest on the retiral benefits from the date of retirement to the actual date of disbursement, at the rate of 12% per annum. Challenging the order passed in the writ petition, the State has come up with this writ appeal.

3.The learned Special Government Pleader appearing for the appellants submitted that as per G.O.Ms.No.173, Finance (Pension) Department, dated 01.04.2004, the Government of Tamil Nadu has ordered that the interest rate for the belated payment of retiral benefits to the Government employees, will be calculated by taking into consideration the interest rate fixed by the Government of India for the General Provident Fund from time to time, and the same would come into force from 01.04.2004. Stating so, the learned Special Government Pleader submitted that at the relevant point of time, the interest rate fixed for General Provident Fund by the Government of India was only 8% per annum and accordingly, the Government of Tamil Nadu has fixed the interest for the belated payment of retiral benefit to the respondent herein at 8% per annum and hence the order passed by this Court in the writ petition awarding 12% per annum is unsustainable and the same has to be set aside.

4.The learned counsel for the respondent has submitted that the order passed by the learned single Judge of this Court in the writ petition is accordance with law and the same does not require any interference by this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.In the order passed by the Government of Tamil Nadu in G.O.Ms.No.173, Finance (Pension) Department, dated 01.04.2004, it is mentioned that for the belated payment of retiral benefits, interest at the rate of 12% per annum was ordered to be paid as per G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995 and thereafter they took a policy decision to fix the interest rate for the belated payment of retiral benefits to the Government employees, at the rate fixed by the Government of India for the General Provident Fund from time to time. At the relevant point of time, the interest rate applicable for the respondent's case was only 8% per annum, and hence it was fixed at 8% per annum, which we feel is in accordance with law. But the learned single Judge has took a lenient view by fixing interest at the rate of 12% per annum for the belated payment of the amount relating to Death-cum-Retirement Gratuity.

7.In view of the above stated circumstances, the order passed in the writ petition in W.P.No.26133 of 2011 dated 05.07.2012 is modified to the effect that the belated payment of the amount relating to Death-cum-Retirement Gratuity to the respondent shall bear the interest at the rate of 8% per annum from the date of superannuation till the actual date of disbursement, instead of 12% per annum.

8.The writ appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Secretary to Government,
   Government of Tamil Nadu,
   Health and Family Welfare Department,
   Fort St.George, Chennai-600 009.

2. The Director of Medical and Rural
   Health Services,
   Chennai-6.

+1cc to Mr.G.Sridevi, Advocate, S.R.No.62622
+1cc to the Government Pleader, S.R.No.62819

W.A.No.867 of 2017

SJ(CO)
CA(22/09/2017)