

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

REVIEW APPLICATION No. 2 of 2015 & Contempt Petition No. 2745 of 2014

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M.P. No. 1 of 2015

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 - 600 006.

..Review Applicants
in
Review Application/
Respondents in
Contempt Petition

Vs.

Dr.K. Vijayalakshmi

..Respondent in
Review Application/
Petitioner in
Contempt Petition

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Prayer in Review Application: Review application to review the order dated 08.11.2013 in W.P. No. 30196 of 2013.

Prayer in Contempt Petition: Petition under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for having committed contempt of

Court by disobeying the order dated 08.11.2013 made in W.P. No. 30196 of 2013.

For Applicants in
Review Application/
Respondents in
Contempt Petition : Mr.V. Anandhamoorthy,
Addl. Govt. Pleader

For Respondent in
Review Application/
Petitioner in
Contempt Petition : Mrs.G. Sridevi

COMMON ORDER

REVIEW APPLICATION No.2 of 2015

The Government is the review applicant seeking to review the order passed by this Court on 08.11.2013 in the writ petition filed by the respondent challenging the order dated 26.08.2013 whereby the respondent's claim for interest on belated payment of Death-cum-Retirement Gratuity (DCRG) and commutation of pension was negatived. G.O.Ms.No. 173 Finance (Pension) Department dated 01.04.2004, which provides for 8% interest for belated payment of DCRG was not brought to the notice of this Court while superseded G.O.Ms. No. 122 Finance (Pension) Department dated 20.02.1995, which prescribes 12% interest on belated payment of DCRG was relied upon.

2. Heard Mr.V. Anandhamoorthy, learned Additional Government

Pleader for the review applicants and Mrs. G. Sridevi, learned counsel for the respondent.

3. The original writ petitioner joined Medical Service and she was to superannuate on 30.09.2004. During her service, departmental proceedings were pending against her and therefore, on the date of superannuation, ie., on 30.09.2004, she was allowed to retire without prejudice to the said departmental proceedings. Subsequently, on 17.08.2011, the charges were dropped and therefore, part of the DCRG amount was disbursed on 28.06.2011 and the balance was also paid in 2012. The commutation amount was also sanctioned and credited to the writ petitioner's account in 2012. In the meanwhile, on 18.11.2011, the writ petitioner herein gave a representation claiming interest on belated payment of DCRG and commutation of pension from the date of her superannuation till the date of disbursement. Since the said representation was not disposed of, she obtained orders from this Court to dispose of the representation dated 18.11.2011 by filing W.P. No. 29994 of 2011. Subsequently, by G.O.(D) No. 304 Health and Family Welfare (Z2) Department dated 03.04.2013, interest to the tune of Rs.2,32,495/- was sanctioned on belated payment of DCRG amount of Rs.3,42,000/-. However, claiming that she is entitled to interest on the balance amount of DCRG as well as commutation of pension, the writ petitioner submitted a representation on 20.06.2013, which was rejected by order dated 26.08.2013 and therefore, the

writ petitioner approached this Court by filing W.P. No. 30196 of 2013. Relying upon G.O.Ms. No. 122 dated 20.02.1995, which prescribes 12% interest on belated payment of DCRG, this Court directed the respondents in the writ petition to determine the interest on the belated payment of commutation of pension and DCRG. The said order was passed on 08.11.2013. The same is sought to be reviewed herein.

4. A perusal of G.O.Ms. No.173 Finance (Pension) Department dated 01.04.2004 reveals that it prescribes only 8% interest for belated payment of DCRG on the date of superannuation of the writ petitioner, namely, 30.09.2004 whereas G.O.Ms. No. 122 dated 20.02.1995, which speaks about 12% interest had been superseded by issue of G.O.Ms. No. 173 dated 01.04.2004. As on the date of retirement of the writ petitioner, G.O.Ms. No. 173 dated 01.04.2004 was alone holding the field and therefore, the writ petitioner is entitled to get only 8% interest on the belated payment of DCRG. In view of that, the order dated 08.11.2013 is reviewed granting 8% interest on the belated payment, which was already paid to the writ petitioner for DCRG amount alone.

5. As far as commutation of pension is concerned, the rate of interest shall remain as 12% per annum, for the belated payment while for PF and other statutory benefits, it shall be 8% per annum. Therefore, the review

applicants are directed to determine the interest payable on the belated payment of aforesaid amounts, at the rate, as specified above and pay the same to the respondent within a period of eight weeks from the date of receipt of a copy of this order.

6. The Review Application is allowed to the extent, as indicated above.

7. In view of allowing of the review application, the contempt petition is closed. No costs.

20.09.2017

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To

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 - 600 006.

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N. KIRUBAKARAN,J.

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