

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.24460 of 2012

T.Ganapathy

.. Petitioner

Versus

The Principal,
Secretary to Government
Revenue [Ser. 3 (2)] Department,
Secretariat, Fort St. George,
Chennai - 600 009.

.. Respondent

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the G.O.(1D) No.140, dated 15.05.2012, Revenue [Ser.3(2)], Department and to quash it to the extent of the order of interest at 8% allowed for belated payment of Death-cum-Retirement Gratuity only and consequently direct the respondent to pay interest at 18% for belated payment of the terminal benefits already settled to the petitioner, within a time frame.

For Petitioner : Mr.N.Sundaramurthy

For Respondent : Mr.S.Diwakar, Spl.G.P.

O R D E R

The petitioner has filed this Writ Petition praying to call for the records relating to the G.O.(1D) No.140, Revenue [Ser.3(2)] Department, dated 15.05.2012 and to quash it to the extent of the order of interest at 8% allowed for belated payment of Death-cum-Retirement Gratuity only and consequently direct the respondent to pay interest at 18% for belated payment of the terminal benefits already settled to the petitioner, within a time frame.

2. The learned counsel appearing for the petitioner has drawn attention of this Court to the G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995, wherein in para 2, it has been observed as follows:

"The Government of India in their O.M. second read above, has issued orders enhancing the existing rate of interest on delayed payment of Death-cum-Retirement Gratuity to their employees at the rate of applicable to General Provident Fund deposits i.e. 12% per annum (compounded annually)."

3. In the light of the aforesaid Government order, the petitioner is entitled for 12% of interest per annum (compounded annually), for belated payment of Death-cum-Retirement Gratuity. Therefore, the impugned order passed by the first respondent, insofar as the interest concerned is liable to be quashed.

4. The learned Government Pleader appearing for the respondent has submitted that the said Government was passed without referring to the G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995 and the Government will reconsider the same by taking into consideration of the said G.O. dated 20.02.1995. The petitioner can very well approach the Government and make representation to modify the said order regarding the order of interest.

5. By taking into consideration the submissions of both sides, in the light of G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995, insofar as the delayed payment of Death-cum-Retirement Gratuity to the petitioner is concerned, the Department has to pay the interest at the rate of 12% per annum (compounded annually). The said G.O. dated 20.02.1995, has not been taken into account while passing the impugned order. Therefore, this Court has no hesitation to set aside the impugned G.O.(1D) No.140, Revenue [Ser.3(2)] Department, dated 15.05.2012, only to the extent of interest awarded at 8%, for the belated payment of Death-cum-Retirement Gratuity and remit the matter back to the respondent for fresh consideration. Liberty is granted to the petitioner to make a fresh representation to the respondent with regard to the dispute regarding interest, within a period of two weeks, from the date of receipt of a copy of this order. On receipt of the said representation, the respondent shall consider the same in the light of G.O.Ms.No.122, Finance (Pension) Department, dated 20.02.1995 and pass orders, as expeditiously as possible, preferably within a period of twelve weeks thereafter.

6. With the above observations and directions, the Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar (CS-II)

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Sub-Assistant Registrar

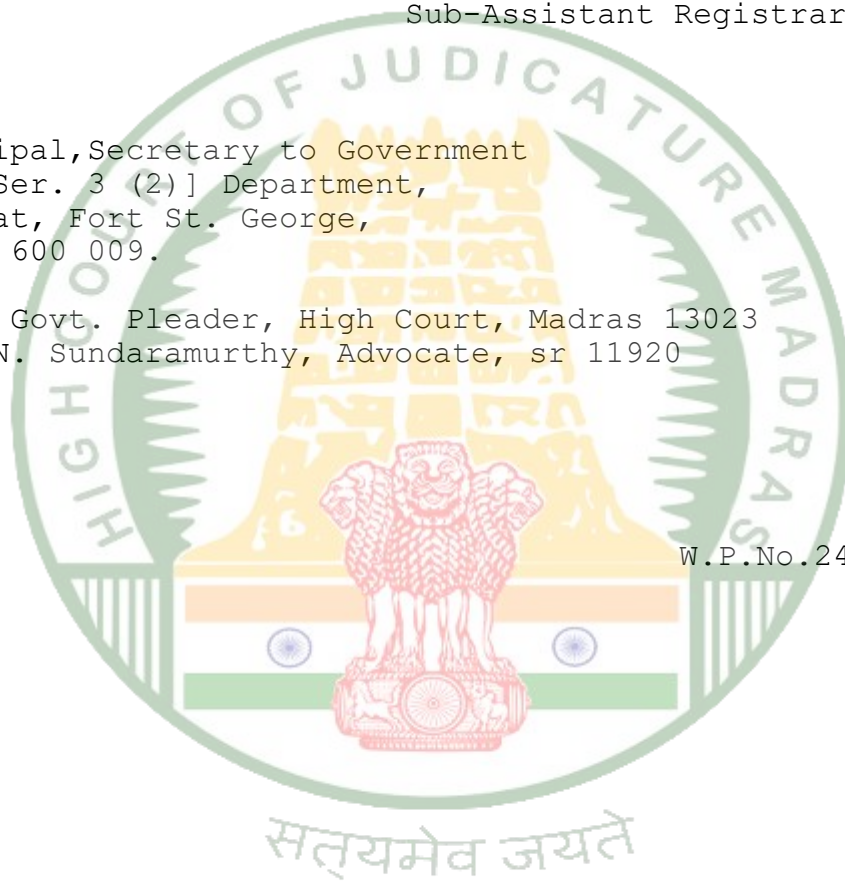
To

The Principal, Secretary to Government
Revenue [Ser. 3 (2)] Department,
Secretariat, Fort St. George,
Chennai - 600 009.

+1 cc The Govt. Pleader, High Court, Madras 13023
+1 cc to N. Sundaramurthy, Advocate, sr 11920

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