



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.05.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.15085 of 2016

C.Sobitharaj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Environment and Forest Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Chennai.

3.The Conservator of Forest,
Tirunelveli Region,
Tirunelveli.

4.The District Forest Officer,
Kanyakumari Division, Nagercoil.

... Respondents

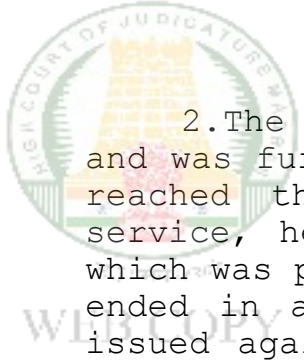
Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to pay interest on the belated payment, Earned Leave surrender, Pongal *Ex gratia* Bonus and House Rent allowance during the suspension period by disposing of the petitioner's representation dated 27.06.2016, within the time frame fixed by this Court.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.K.P.Krishnadoss,
Government Advocate

O R D E R

The prayer in the writ petition is for a Writ of Mandamus, directing the respondents to pay interest on the belated payment, Earned Leave surrender, Pongal *Ex-gratia* Bonus and House Rent Allowance during the suspension period, by disposing of the petitioner's representation, dated 27.06.2016, within a time frame to be fixed by this Court.



2.The petitioner was appointed as a Forester in the year 1974 and was further promoted to the post of Ranger in the year 1998 and reached the age of superannuation on 30.09.2007. During his service, he was placed under suspension based on a criminal case, which was pending against him. Subsequently, the said criminal case ended in acquittal. After his superannuation, a charge memo was issued against the petitioner. However, the said charge memo was quashed by this Court in W.P(MD)No.11404 of 2009, dated 03.06.2014. Therefore, the petitioner was allowed to retire from service on 16.06.2015, vide G.O(2D)No.64, Environment and Forests (FR.12) Department. Therefore, the period between 17.06.2007 and 01.07.2015, the petitioner had not been permitted to retire and his service benefits had also not been given to him and he was also placed under suspension. During this period, certain service benefits had not been provided to him, such as, House Rent Allowance, Pongal *Ex-gratia* Bonus, Earned Leave surrender for 30 days, etc.

3.In order to get all these benefits, the petitioner had given a representation to the respondents, including the second respondent, who is the competent authority to decide the same, on 27.06.2016. In spite of the said representation having been given by the petitioner, nothing was forthcoming and no decision was taken by the respondents and therefore, the petitioner has approached this Court by way of the present Writ Petition with the aforesaid prayer.

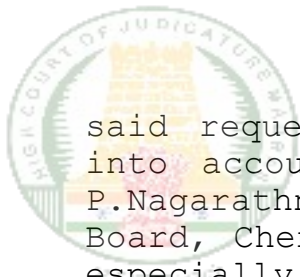
4.Heard both sides.

5.Mr.P.Saravanakumar, learned counsel appearing for the petitioner would submit that the petitioner would be entitled to get certain service benefits, which were wrongly denied to him during the said period, where the petitioner was mistakenly placed under suspension. In order to get those benefits, the petitioner had given the said representation, dated 27.06.2016. In this regard, the learned counsel for the petitioner would submit that if the said representation of the petitioner is considered and decided on merits and in accordance with law by taking into account the service benefits sought for by the petitioner through the said representation, are due to be given to the petitioner within a time frame, the petitioner would be satisfied.

6.Heard in this regard, Mr.K.P.Krishnadoss, learned Government Advocate appearing for the respondents.

7.Since the very prayer sought for in the Writ Petition is very innocuous in nature and also in view of the submissions now made by the learned counsel appearing for the petitioner, this Court is inclined to dispose of this Writ Petition with the following directions.

8.The petitioner's representation, dated 27.06.2016, shall be considered and decided on merits in accordance with law by the second respondent and the decision thereon shall be taken and to be communicated to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. While considering the



said request of the petitioner, the second respondent shall take into account the law laid down by this Court in a Judgment in P.Nagarathna Pandian vs. Managing Director, Tamil Nadu Housing Board, Chennai and another [W.P.No.6902 of 2006, dated 30.07.2010] especially in paragraph 11 of the said judgment, which is extracted hereunder:

"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 proceeding 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 filled, 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, petitioner cannot be penalised by denying interest for the belated payment of retirement benefits."

9.With the above directions, this Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary,
Environment and Forest Department,
Fort St.George, Secretariat, Chennai - 600 009.
- 2.The Principal Chief Conservator of Forests, Chennai.
- 3.The Conservator of Forest, Tirunelveli Region, Tirunelveli.
- 4.The District Forest Officer,
Kanyakumari Division, Nagercoil.

+One cc to M/s.Hariharan Nair, Advocate, SR.No.55972

+One cc to The Special Government Pleader, SR.No.55981

sss/smn/smn2

RL/7C/3P/SV/MMS/SAR1/28/11/2017

<https://hcservices.ecourts.gov.in/hcservices/>

ORDER MADE IN

W.P (MD) No.15085 of 2016

08/05/2017