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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) No.7185 of 2013

C.T.Sundaram

...Petitioner

Vs.

1. The Chief Secretary to Government,
Secretariat, Fort Saint George, Chennai 600 009.

2. The Secretary to Government,
Home (Courts-V) Department,
Secretariat, Fort Saint George, Chennai 600 009.

3. Second Additional District Judge, Trichy.

4. The Principal District Judge,
Tiruchirapalli.

...Respondents

(R4 is impleaded vide order dated 20.03.2017 made in WMP(MD).
No.9084 /2016)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records in respect of the Letter No.77894/Cts.V/2012-21, dated 10.01.2013 based on G.O.(D). 698 Home (Cts.V) Department, dated 27.08.2012 issued by the 2nd respondent, quash the same and direct the 2nd respondent to issue a G.O. To pay the unpaid interest on the Death-cum-Retirement-Gratuity amount of Rs.3,11,756/- at the rate of 8% for the period from 01.05.2007 to 31.12.2009.

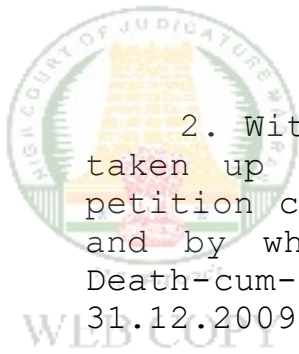
For Petitioner : Mr.S.Sundaram

For Respondents : Mr.S.Chandrasekar for R1 and R2
Government Advocate
Mr.M.Tamilmani for R3 and R4

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM,J**]

Heard Mr.S.Sundaram, learned counsel for the petitioner, Mr.S.Chandrasekar, learned Government Advocate for the respondents 1 and 2 and Mr.M.Tamilmani, learned counsel for the respondents 3 and 4.



2. With the consent of both sides, the writ petition itself is taken up for final disposal. The petitioner has filed the writ petition challenging the order passed by the second respondent, in and by which, the petitioner has been denied interest on the Death-cum-Gratuity amount for the period from 01.05.2007 to 31.12.2009.

3. The petitioner, who was working under the third respondent as a Translator, was placed under suspension on 23.04.2007 on the eve of his retirement i.e. 30.04.2007. The petitioner preferred departmental appeal as against the order of suspension. Since appeal petition was returned, the petitioner preferred a writ petition W.P.(MD).No.5201/2007 challenging the order of suspension. While the writ petition was pending, on 02.08.2007 a charge memo was issued containing 12 articles of charges and the I Additional District Judge (PCR Act), Tiruchirapalli, was appointed as the Enquiry Officer. The petitioner subjected himself to the disciplinary proceedings and the Enquiry Officer submitted his report, dated 31.05.2010, holding that charges are not proved. The Disciplinary Authority, namely, the fourth respondent herein, vide proceedings, dated 29.01.2011 dropped all the charges and permitted the petitioner to retire from services. After such order, the petitioner has received his Death-cum-Retirement Gratuity and interest for the period from 30.01.2011 to 11.10.2011. Interest for the period from 01.05.2007 to 31.12.2009 being Rs.68,786/- has not been paid. The second respondent by the impugned order has rejected the same stating that the delay is attributable to the petitioner and therefore, the petitioner is not entitled for interest. The stand taken by the second respondent is based upon G.O.(Ms)No.527, Finance (Pension) Department, dated 15.06.1987.

4. From the above said facts, it is seen that the petitioner, who was going to attain the age of superannuation on 30.04.2007, was placed under suspension on 23.04.2007 and not permitted to retire. The petitioner challenged the order of suspension before this Court and when the same was pending, charge memo was issued in the year 2007 and the petitioner subjected himself to the disciplinary proceedings and ultimately the charges were held to be not proved vide order dated 31.05.2010. It is further seen that the disciplinary authority dropped the charges vide order dated 29.01.2011. Thereafter, the petitioner withdrew the writ petition.

5. In the above stated circumstances, the petitioner cannot be held to be responsible for the delay. Firstly, there is no explanation as to why the disciplinary proceedings took such a long period of 3 years. Even though the enquiry officer has submitted his report on 31.05.2010 holding that the charges are not proved, the Disciplinary Authority passed final orders on 29.01.2011 and thereafter, the petitioner withdrew the writ



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petition and got the Death cum retirement benefits. The petitioner having been fully exonerated from the allegations and permitted to retire from service without any imputations, is entitled for interest for the said period also.

6. Accordingly, the writ petition is allowed and the impugned order is set aside and the second respondent is directed to sanction and pay interest to the petitioner for the period from 01.05.2007 to 31.12.2009, within a period of 3 months from the date of receipt of proposal from the respondents 3 and 4. In the light of the above, the respondents 3 and 4 are directed to send appropriate proposal to the second respondent, within a period of 6 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1.The Chief Secretary to Government,
Secretariat, Fort Saint George, Chennai 600 009.

2.The Secretary to Government,
Home (Courts-V) Department,
Secretariat, Fort Saint George, Chennai 600 009.

3.The Second Additional District Judge, Trichy.

4.The Principal District Judge, Tiruchirapalli.

+1 cc to Special Government Pleader , SR.No. 16630

+4 cc to Mr.S.Sundaram, Advocate, SR.No. 16029

**ORDER MADE IN
W.P. (MD) No.7185 of 2013
20.03.2017**

jikr

MKV-MR-SAR 4/6.4.2017/3P-7C