

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:10.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.49738 of 2006

A.D.Raman

... Petitioner

Vs.

The Government of Tamil Nadu,
represented by the
Secretary to the Government,
Rural Development Department,
Fort St.George,
Chennai-600 009.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to pay interest to the petitioner on the belated payment of retirement benefits from 01.10.2004 till the actual date of payment of each benefit.

For Petitioner : Mr.P.Rajendran
For Respondents :Mr.K.RaviKumar SGP
Standing counsel.

O R D E R

The petitioner has filed this Writ Petition seeking issuance of Mandamus, directing the respondent to pay interest to the petitioner on the belated payment of retirement benefits from 01.10.2004, till the actual date of payment of each benefit.

2.The case of the petitioner is that, when he was working as Personal Assistant (Noon Meal Programme) to the Collector, Kancheepuram District, he was placed under suspension in and by an order dated 04.06.2003. Thereafter, charges were framed by the Director of Rural Development, Chennai on 14.11.2003 and he submitted his explanation on 23.11.2003. After conducting enquiry, three charges were held as not proved. Accordingly, the Government issued order in G.O.(D) No.851, Rural Development (E-1) Department dated 30.09.2004, exonerating the charges against the petitioner. But, on the same date, the Government passed another G.O.(D)No.852, Rural Development(E-1) Department, dated 30.09.2004 revoking the suspension and passed another G.O.

(D).No.852, Rural Development (E-1) Department dated 30.09.2004, allowing the petitioner to retire from service on the afternoon of 30.09.2004 on superannuation. Thus, even after retiring from service, he was not given any retirement benefits. The petitioner has filed a writ petition in W.P.No.28311 of 2005 seeking to regularize the period of suspension and grant all consequential benefits. This Court by an order dated 05.09.2005, directed the respondent to consider the petitioner's representation and pass orders within twelve weeks. Accordingly, the Government issued G.O.(D) No.562 dated 02.11.2005, regularizing the period of suspension and directed to pay the allowances due to the petitioner. According to the petitioner, even though the said G.O was passed much earlier, the retirement benefits were disbursed to him very belatedly. Aggrieved by the same, the petitioner has filed this Writ Petition with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that the petitioner, prior to his retirement disciplinary proceedings was initiated against him and charges were framed. However, the petitioner was allowed to retire on 30.09.2004. Even thereafter, he was not paid retirement benefits. Accordingly, the petitioner is entitled for interest on belated settlement of retirement benefits. In support of his contention, the learned counsel for the petitioner relied upon an unreported decision rendered in the case of The Commissioner Corporation of Chennai and others Vs. E.Manickam in W.A.No.1272 of 2017 dated 20.10.2017.

4.I have considered the rival submissions and perused the papers on record.

5.At the time of his retirement on 30.09.2004, the petitioner was facing three charges against him and after enquiry, two G.Os., were issued allowing the petitioner to retire from service since the disciplinary proceedings were closed and the charges against him were exonerated. The charges framed was that the petitioner misbehaved with the women staff and given sexual harassment to the noon-meal organizer for which he was issued with memo. However, at the time of retirement, the charges were exonerated and there is no whisper with regard to the disciplinary enquiry. The respondent hurriedly conducted the enquiry and closed the charges in order to allow the petitioner to retire from service. Hence, there is an administrative delay in settling the payments.

6.Though, the learned counsel for the petitioner relied upon the decision cited supra, which is not applicable to the present case, if there is unexplained delay in settling the retirement benefits, the department is responsible for payment

of interest. However, in the present case, the petitioner is facing grave charges under Rule 17(B) of the Tamil Nadu Civil services (D.& A.) Rules. On perusal of the decision cited above, no charges or charge memo pending against the petitioner therein and the Department failed to settle the benefit within reasonable time, the department is responsible for the payment of interest on belated retirement benefits.

7. In the present case, the petitioner is facing disciplinary proceedings and all the charges were exonerated and the disciplinary proceedings were closed at the time of retirement for the purpose of allowing the retirement service and there may be administrative reasons for delay in settling the retirement benefits. In view of the above, the decision cited supra cannot be applied to this present case. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Secretary,
Government of Tamil Nadu,
Rural Development Department,
Fort St. George,
Chennai-600 009.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.45681

+1cc to the Government Pleader, S.R.No.45724

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BR(CO)
GSP(30/08/2018)

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