



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Thirteenth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR

SUB A(MD) No.36 of 2018
IN
CONT P(MD) No.917 of 2015
IN
WP(MD) NO.13399 OF 2009

S.MUNIYANDI,

... PETITIONER/PETITOINER/
PETITIONER

Vs

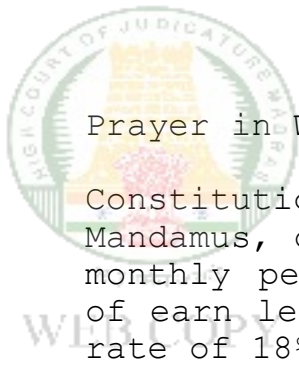
- 1 GAGAN DEEP SINGH BEDI
THE SECRETARY TO GOVERNMENT OF TAMIL NADU,
RURAL DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT,
SECRETARIAT, CHENNAI-9.
- 2 J. KAILAINATHAN
THE DIRECTOR, LOCAL FUND AUDIT,
KURALAGAM, CHENNAI - 108.
- 3 D. ILANGO
THE DISTRICT COLLECTOR, SIVAGANGAI DISTRICT,
SIVAGANGAI.
- 4 THE COMMISSIONER,
IIAYANKUDI PANCHAYAT UNION,
SIVAGANGAI DISTRICT.

... RESPONDENTS/CONTEMNORS/
RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Set aside the order dated 28.03.2017 made in Contempt Petition No.917 of 2015 and consequently re-open the Contempt Petition to punish the contemnors for their continuous willful disobedience of the order dated 17.12.2014 in W.P.No.13399 of 2009.

Prayer in CONT P(MD). 917/ 2015 :

To punish the respondents herein for their deliberate and willful disobedience of the order passed by this Honourable Court in WP.(MD).No.13399/2009 dated 17.12.2014.



Prayer in WP(MD). 13399/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to pay the retirement benefits , monthly pension, pension arrears, commutation of pension surrender of earn leave, DCRG and other service benefits with interest at the rate of 18% per annum from the date of petitioners retirement.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.V.SASI KUMAR, Advocate for the petitioner and of MR.D.MURUGANANDAM, Additional Government Pleader for the Respondents the court made the following order:-

This sub application has been filed to set aside the order dated 28.03.2017 made in Contempt Petition No.917 of 2015 and consequently, re-open the Contempt Petition to punish the contemnors for their continuous willful disobedience of the order dated 17.12.2014 in W.P.No.13399 of 2009.

2. Heard Mr.V.Sasi Kumar, learned counsel appearing for the petitioner and Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents.

3. This Court, in W.P.(MD)No.13399 of 2009 on 17.12.2014, passed the following order:

"5. In the result, the respondents are directed to sanction and disburse the retiral and pensionary benefits due to the petitioner with effect from the date of his retirement with interest at 12% p.a. The said exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order. This writ petition is accordingly ordered. No costs."

4. Since the said order is allegedly not complied with by the respondents, this Contempt Petition was moved by the petitioner to punish the respondents.

5. During the pendency of the main contempt petition, on the respondents' side, it was pleaded that the orders of this Court had also been complied with. Recording the same, the learned Single Judge of this Court, by order dated 28.03.2017, closed the contempt petition with the following order:

"The learned Government Advocate would submit that the order and direction issued by this Court has been complied with.

2. In the light of the same, this contempt petition is closed."



6. Only in that circumstances, the present Sub Application has been filed with the aforesaid prayer.

7. Today, the learned Additional Government Pleader appearing for the respondents would submit that it was directed by this Court to disburse the retirement benefits with 12% interest. Accordingly, all the retirement benefits in various heads and other benefits also had been paid to the petitioner. While so, wherever such retirement benefits would carry interest, interest also had been calculated and had been paid. In this regard, a calculation memo has been filed by the learned Additional Government Pleader about the amount disbursed under the various heads in compliance of the order of this Court, which reads thus:-

"

S.முனியாண்டி ஆண் மருத்துவ உடனாளர்

ஊராட்சி ஒன்றியம் இளையான்குடி, சீவகங்கை மாவட்டம்.

வரிசை எண்	ஓய்வூதிய பயன்கள்	தொகை
1	இறப்பு மற்றும் ஓய்வு கால பணிக்கொடை (DCRG)	1,16,890
2	ஒப்படைப்பு தொகை Commutation	1,05,576
3	ஓய்வூதியம் (Pension)	3,479
4	ஈட்டிய விடுப்பு ஒப்படைப்பு 102 நாட்கள் (Encashment of Earned Leave)	6,705
5	சொந்தகாரணங்களுக்கான ஈட்டா விடுப்பு (Unearned Leaves on Private Affairs)	5,916
6	ஓய்வூதிய நிலுவை தொகை (01.06.2008 முதல் 31.05.2016 முடிய) (Pension Arrear)	2,99,904
7	அகவிலைப்படி நிலுவைத் தொகை (D.A.Arrear)	2,07,340
8	DCRG Interest Amount	90,366

8. Therefore, the learned Additional Government Pleader submitted that in toto, the order has been complied with and therefore, there is no scope for reopening the contempt petition once again and hence the Sub Application is liable to be rejected.

9. The learned counsel appearing for the petitioner would submit that the calculation memo filed by the respondent may not be correct as in most of the heads, though the original retirement



benefits alone was paid and the interest amount at the rate of 12% as directed by this Court has not been paid. According to the petitioner, the petitioner has filed a calculation memo, which reads thus:

WEB COPY

" CALCULATION MEMO

A. For the period from 01.06.2008 to 31.05.2016.

In total, 96 months.

Pay	299094
DA	207340
MA	9600
Earned Leave Surrender	94827

Interest to be payable for Rs.611671

$$611671 * \frac{96}{12} * \frac{12}{100} = 5,87,204$$

B. Subsequent period from 01.06.2016 to 31.03.2018.

In total, 22 months.

$$611671 * \frac{22}{12} * \frac{12}{100} = 1,34,567$$

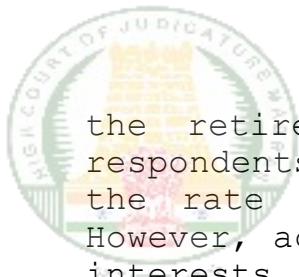
Finally, A + B = 5,87,204
1,34,567

Rs. 7,21,771
----- "

10. In view of the said calculation memo filed by the petitioner, the learned counsel appearing for the petitioner would submit that unless the due amount by way of remaining interest on certain heads is paid, it can be construed only as willful disobedience of the orders of this Court and on account of this, the contempt petition can be retained and it can be proceeded against the respondents.

11. I have given anxious consideration to the submissions made by the parties and perused all the materials placed before this Court.

12. No doubt, a direction was given to disburse the retirement benefits with 12% interest to the petitioner, pursuant to which, all



the retirement benefits have been disbursed. According to the respondents, wherever retirement benefits would carry interest at the rate of 12%, interests were calculated and had been given. However, according to the petitioner, in certain areas or heads, the interests were not calculated and had not been disbursed and therefore, in respect of that aspect, the contempt petition can very well be revived.

13. In contempt petition, the Court would see only whether the contemnor has willfully disobeyed the order of this Court. Here, in the case in hand, since the orders have been complied with by the respondents, recording the same, this Court, by order dated 28.03.2017, has closed the contempt petition. At the time of closing of the contempt petition, nothing was murmured by the petitioner side with regard to the alleged miscalculation in the heads of the interest as alleged now.

14. If the petitioner still has any grievance regarding the calculation of interest on different heads and if there is any dispute between the petitioner and the respondents, the same can very well be agitated and decided in the manner known to law and that kind of disputed question of facts and the liability may not be gone into sitting in the contempt jurisdiction and therefore, for all these reasons, this Court feels that this Sub Application deserves to be rejected. Accordingly, the same is rejected.

sd/-

13/04/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 GAGAN DEEP SINGH BEDI
THE SECRETARY TO GOVERNMENT OF TAMIL NADU,
RURAL DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT,
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4 THE COMMISSIONER,
IIAYANKUDI PANCHAYAT UNION,
SIVAGANGAI DISTRICT.

+1. C.C. to M/S.V.SASI KUMAR Advocate SR.No.6200
+1cc to Special Government Pleader in SR.No. 61402

ORDER
IN
SUB A(MD) No.36 of 2018
IN
CONT P(MD) No.917 of 2015
IN WP(MD) NO.13399/2009
Date :13/04/2018

SM
PK/VR/SAR-4-24.7.18-6P-7C