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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.06.2019
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2107 of 2013
and
W.M.P.No.30310 of 2018

E. Ramachandran

... Petitioner

Vs

1. The Director,
Municipal Administration and
Water Supply Department,
VI Floor, Ezhilagam,
Chepauk, Chennai 600 005.
 2. The Joint Director cum Information Officer,
Local Fund Audit,
IV Floor, Kuralagom,
Chennai 108.
 3. The Commissioner,
Myladuthurai Municipality,
Nagapattinam District.
- ... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay 12% interest compoundable annually on the delayed payment of pensionary benefits to the petitioner from 31.12.2006 as per G.O.Ms.No.122, Finance (pension) Department, dated 20.02.2005 within the date fixed by this Hon'ble Court.

(Prayer amended as per order dated 06.02.2013 in M.P.No.1 of 2013 in WP.No. 2107/2013)

For Petitioner : Mr. A.R.Nixon

For Respondent : Mr. P. Siva Shanmuga Sundaram
Spl. G.P.

O R D E R

This writ petition has been filed for issuance of a writ of Mandamus to direct the respondents to pay 12% interest compoundable annually on the delayed payment of pensionary



benefits to the petitioner from 31.12.2006.

2. The petitioner has attained age of superannuation on 31.12.2006. However, the petitioner was not permitted to retire on the ground that defamation action is pending against him. Apart from that, a charge memo dated 22.11.2006 has also been issued one month before the verge of his retirement. Thereafter, vide G.O.359 (Municipal Administration and Water Supply Department) dated 21.09.2011, the charge(s) against the petitioner had been dropped. However, terminal benefits have been sanctioned only in the year 2012 (i.e.) Death cum Retirement Gratuity was sanctioned in the month of April 2012, which was received by the second respondent on 21.05.2012 and that the proposals regarding pension was received by the second respondent on 21.05.2012 and the Director of Local Fund Audit sanctioned the revision of pension Death Cum Retirement Gratuity and the same was communicated to the petitioner on 06.09.2012.

3. The learned counsel for the petitioner submits that since the charges were dropped, in terms of G.O.Ms.No.122 Finance (Pension) Department, dated 20.02.2005 the petitioner would be entitled to get all the terminal benefits at the rate mentioned therein. For the sake of convenience, the said G.O is extracted hereunder :

" 3. The Government have carefully examined the question of revision of rate of interest for the delayed payment of Death-cum-Retirement Gratuity and have decided to adopt the Government of India orders referred to in para 2 above in respect of State Government employees. They accordingly direct that when payment of Death-cum-Retirement Gratuity has been delayed, the rate of interest shall be paid at the rate of 12% per annum (compounded annually) ".

4. According to the petitioner, he should have been paid the terminal and other benefits from 2011, when the charges have been dropped. But, there was an exorbitant delay and that amount was sanctioned and being paid belatedly. The learned counsel for the petitioner submitted that he should be granted interest from the date of actual dropping of charges, failing which, the respondents may be directed to pay interest from the date of superannuation.

5. The learned counsel for the respondents would submit that charge(s) had been dropped in the year 2011, but, it cannot be said that there is an exorbitant delay and the entire amount has been paid by them within a period of one year from the date



of dropping of the charges dated 21.09.2011.

6. Heard both sides and perused the materials available on record.

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7. Admittedly, there is a delay on the part of the respondents in payment of retiral benefits. It is not in dispute that the petitioner is facing charge(s). Once the charge(s) had been dropped, the respondents ought to have paid the terminal benefits immediately to the petitioner and it should not be delayed. It is clear that if there is employee-employer dispute, termination benefits should be issued within 30 days. In the present case on hand, the Government Order stipulates that if there is a delay, interest shall be paid as per the G.O.Ms.No.122 mentioned supra.

8. Taking note of the submissions made by the petitioner, I find much fair in his contention and that for the delayed payment of terminal benefits, the petitioner would be entitled to interest from 21.09.2011 till the amount is actually disbursed at the rate mentioned in the said Government Order.

9. Accordingly, the respondents are directed to pay the interest amount within 45 days from the date of dropping of the charges, failing which the petitioner could be entitled to interest from the date of superannuation, namely 31.12.2006 and the entire amount payable to the petitioner by way of interest shall be recovered from the personal funds of the respondents in view of the decision of the Apex Court reported in AIR 1994 SC 23 (Central Co-operative Consumers' Store Ltd /vs/ Labour Court, H.P. at Shimla and another.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Director,
Municipal Administration and
Water Supply Department,
VI Floor, Ezhilagam,
Chepauk, Chennai 600 005.



2. The Joint Director cum Information Officer,
Local Fund Audit,
IV Floor, Kuralagom,
Chennai 108.

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3. The Commissioner,
Myladuthurai Municipality,
Nagapattinam District.

+lcc to Mr.A.R.Nixon, Advocate, S.R.No. 49908
+lcc to the Government Pleader, S.R.No. 50612

W.P.No.2107 of 2013

EV(CO)
GN(22/08/2019)