

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.24240 of 2013

Dr.M.Fathimunissa

... Petitioner

-vs-

1.The Commissioner,
Corporation of Chennai,
Chennai-600 003.

2.The Zonal Officer,
Zone-10,
Corporation of Chennai,
Adayar, Chennai-600 020.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents herein to release 25% DCRG comes around Rs.44,240/- with interest at the rate of 24% per annum from 01.06.1998 till the date of realization to the Petitioner.

For Petitioner : Mr.K.Raja

For Respondents : Mrs.Karthika Ashok
Standing Counsel

O R D E R

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This Writ Petition has been filed for a direction to the Respondents herein to release 25% of the DCRG, which comes around Rs.44,240/- with interest at the rate of 24% per annum from 01.06.1998 till the date of realization to the Petitioner.

2. The retirement benefits of the petitioner in respect of DCRG to the extent of 25% has been withheld by the Respondents, on the ground that in case of any Audit Objection in future, the

amount withheld would be adjusted. In this case, more than two decades have gone by and some of the Contemporaneous Officials would have already retired and died as well. On 06.06.2019, this Court directed the Respondent Corporation to furnish the details of persons, who were in service at the time of retirement of the Petitioner to ascertain as to whether any action has been taken against the Petitioner, in response to which, a communication dated 03.07.2019 has been furnished to this Court, providing names of Officials, who worked during the relevant point of time.

3. The contention of the Respondents, that due to non-appearance of the Petitioner before the concerned authority for clearance of Audit queries, the Audit Objections are still pending and therefore, the Petitioner may be directed to appear and clear the doubts, cannot be accepted at this distant point of time, namely, after a lapse of 20 years, as several Officials have already attained superannuation and expired too, as could be seen from the Communication dated 03.07.2019. When the Government had itself passed an order dated 08.07.2005 with regard to initiation of action against the Erring Officials, the Respondents should have taken action immediately. Surprisingly, no proceedings have been initiated, rather the Respondents have sought for a direction for appearance of the Petitioner. This Court cannot simply issue such direction to the petitioner for her appearance after a lapse of 20 years and even if such a direction is issued, the Petitioner will certainly take a stand that she had already given suitable explanation to the Officials working at that time, who are now no more and therefore, it is very difficult to ascertain the genuineness of the statement of the Petitioner.

4. Admittedly, the Respondents have slept over the matter for nearly two decades and are trying to wake up from the slumber for proceeding against the Petitioner, which cannot be permissible now and therefore, this Court is of the view that the Petitioner is entitled to the DCRG amount withheld by the Respondents.

5. In the result, the Writ Petition is disposed of, directing the Respondents to release the 25% of the DCRG withheld by the Respondents to the petitioner within a period of 45 days from the date of receipt of a copy of this order and the Petitioner is entitled to interest @ 6% per annum from the date it came due, viz., 31.05.1999. It is made clear that if the amount is not released within the time stipulated supra, it will carry interest @ 12% to be recovered from the personal fund of the Officials, responsible for release of the amount to the

petitioner. It is further directed that the 1st Respondent shall furnish the name of the Officials with their designation, who failed to release the amount in time to the Registrar General of this Court, within a period of 30 days from the date of expiry of the time mentioned supra, so as to enable him to bring the same to the notice of this Court thereafter. No costs.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Corporation of Chennai,
Chennai-600 003.
- 2.The Zonal Officer,
Zone-10,
Corporation of Chennai,
Adayar, Chennai-600 020.
- 3.The Registrar General,
High Court, Madras.

+1 cc to Mr.K.Raja, Advocate, S.R.No.59574

+1 cc to M/s.Karthikaa Ashok, Advocate, S.R.No.59613

W.P.No.24240 of 2013

GP(CO)
SSM(09/08/2019)

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