



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2019

CORAM:

WEB COPY

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU
and
THE HON'BLE Mr. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No. 477 of 2018
and
C.M.P. (MD) No. 3101 of 2018

1. The Field Director and Conservator of Forests,
Project Tiger, Tirunelveli.

2. The Divisional Forest Officer,
Social Forestry Division,
Tirunelveli.

...Appellants/Respondents 1 & 2

Vs.

A.Muthukumar

...Respondent/Petitioner

PRAYER: The Appeal filed under Clause 15 of Letters Patent Act, as against the order dated 24.11.2017 in W.P. (MD) No. 12432 of 2009.

Prayer in WP (MD) . 12432 of 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent relating to C.No. E1/6077/2003 dated 18/12/2008 quash the same and directing the respondent to pay the interest at the rate of 18% for the delayed payment of the arrears of salary and oher allowances for the period of dismissal form service ie. from 08/12/2004 to 24/12/2005 within a stipulate period of time.

For Appellants : Mr.V.R.Shanmuganathan, Spl.G.P.

For Respondent : Mr.A.Rajaram

JUDGMENT

(Judgment of the Court was delivered by K.RAVICHANDRABAABU,J.)



2.The appellants are the respondents 1 and 2 before the Writ Court. The Writ petition was filed challenging the order of the second appellant herein dated 18.12.2008, wherein and whereby, the request for payment of interest on the salary paid to the petitioner, was not considered. Consequently, the Writ petitioner sought for a direction to the respondents to pay the interest at the rate of 18% for the delayed payment of arrears of salary and other allowance for the period of dismissal from service ie., from 08.12.2004 to 24.12.2005.

3.Heard both sides.

4.The Writ petitioner was working as Junior Assistant at the respondents Department. A criminal case was registered against the petitioner in Crime No.230 of 2002 and he was convicted by the Judicial Magistrate, Tirunelveli in C.C.No.64 of 2003 on 26.02.2004. In view of the conviction made by the Criminal Court, the petitioner was dismissed from service. He filed Criminal Appeal before the Principal Sessions Judge in C.A.No.63 of 2004. The said Appeal was allowed on 29.07.2005 thereby setting aside the conviction and sentence. After acquittal by the criminal court, the Writ petitioner made a representation on 23.08.2005 to reinstate him into service. Consequently, the first respondent through proceedings dated 07.11.2005 cancelled the order of dismissal from service, without making any order to regularize the period of dismissal. Again the petitioner made a representation on 12.11.2005 requesting for posting order and thereafter, the petitioner was also posted at Dindigul Circle. However, the petitioner's request for regularizing the period of dismissal and for monetary benefits was partly considered only by disbursing the monetary benefits and not by regularizing the service. Therefore, the petitioner filed W.P. (MD)No.1306 of 2007 before this Court and the said Writ petition was allowed by directing the respondents therein to give consequential benefits to the petitioner within a period of six weeks. Thereafter, the first respondent, through proceedings dated 17.11.2008, treated the period of dismissal from service as duty period and also paid the amount, however, without interest. Hence, claiming interest, the petitioner made a representation to the respondents. Since the same was not considered, the Writ petition was filed before the Writ Court.

5.The Writ Court after considering the earlier order passed in W.P.(MD)No.1306 of 2007 and finding that the order passed therein has become final and also binding on the official respondents, disposed the said Writ petition with a direction to the respondents to pay interest at the rate of 18% p.a. for the delayed payment. Challenging the said order, the present Writ Appeal is filed before this Court.

6.Mr.V.R.Shanmuganathan, learned Special Government Pleader submitted that the Writ petitioner is not entitled to get interest since the dismissal order was passed only based on the conviction made by the Criminal Court even though the same was set aside at a later point by the Appellate Court. He further submitted that immediately after the order made in W.P.(MD)No.1306 of 2007 dated



17.09.2008, the petitioner's service was regularized on 02.12.2008 and monetary benefits were given. Therefore, the petitioner is not justified in contending that there was a delay in making the payment.

7. On the other hand, the learned counsel for the Writ petitioner / respondent contended that in view of the order passed in W.P.(MD)No.1306 of 2007 dated 17.09.2008, the appellants are not justified in refusing to pay interest for the delayed payment of the salary.

8. From the perusal of the order passed in W.P.(MD)No.1306 of 2007, we find that the appellants are not justified in raising an objection for grant of interest. It is seen that the above said Writ petition was filed by the very same Writ petitioner for a Mandamus, directing the respondents therein to regularize the period from the date of order of dismissal from service till the date of reinstatement into service ie., from 08.12.2004 to 24.12.2005 as duty for all purposes and to disburse full pay and allowance for the said period with interest of 18% p.a. within a month. The said Writ petition was allowed as prayed for by the Writ Court. Thus, there will be no difficulty in understanding the order passed by the Writ Court that the relief as sought for in the Writ petition has been granted which includes the payment of interest at 18% p.a.

9. Admittedly, the said order has not been put to challenge by the department and on the other hand, the said order has been accepted and complied with. The question is whether the compliance is in full or in part. No doubt, the appellants have complied with the order by regularizing the service of the petitioner and also by paying the salary to the disputed period by treating the same as duty period. However, as the petitioner has sought for payment of interest at 18% p.a. and when such relief is also granted by the Writ Court in the above Writ petition, we don't find any justification on the part of the respondents in denying the interest. Therefore, this aspect has been rightly considered by the learned Single Judge while disposing the Writ petition with which we find no reason to interfere.

10. Accordingly, the Writ Appeal fails and the same is dismissed. The appellants are directed to comply with the order passed by the Writ Court within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected C.M.P. is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To:

1.The Field Director and Conservator of Forests,
Project Tiger,
Tirunelveli.

2.The Divisional Forest Officer,
Social Forestry Division,
Tirunelveli.

+1 CC to MR.A.RAJARAM, Advocate (SR-69520.

+1 CC to SPL GP SR-69768.

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