

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 28.02.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.17637 of 2018**

Kala

... Petitioner

Vs.

The Executive Engineer,
TANGEDCO,
Sivagangai Distribution Circle,
Sivagangai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondent to pay the family pension, terminal benefits including gratuity and earned leave, solatium fund etc., to the deceased husband of the petitioner, namely Kanagaraj, worked as Mazdoor in the respondent office within the time frame fixed by this Court.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondent : Mrs.J.Padmavathy Devi,
Special Government Pleader.

ORDER

According to the petitioner, her husband worked in the respondent Corporation as Mazdoor and due to Electrocution, he passed away on 02.09.2015. However, the terminal and pensionary benefits due to the petitioner's husband have not been settled. Hence, the petitioner made representation to the respondents. However, the same yielded no result. As the petitioner is entitled to receive all the terminal and pensionary benefits of her husband, the petitioner has come forward with the present writ petition seeking a direction to the respondent to pay the family pension, terminal benefits including gratuity and earned leave, solatium fund etc., to the deceased husband of the petitioner, namely Kanagaraj.

2.Heard both sides and perused the records.

3.This Court, in WP(MD)No.20107 of 2018 vide order dated 28.02.2019, extensively dealt with the issue relating to sanction of retirement benefits, pension and interest on belated payment of the same and ultimately, observed and held at paragraphs 20 and 22, as under:



"20. Thus, the principles enunciated from the aforesaid decisions rendered by the Supreme Court as well as by this Court and also in the light of the Government Orders and the relevant provisions of law, are that the benefits bestowed by law upon an employee in recognition of his/her committed, continuous, loyal and devoted duty by payment of the pension, gratuity, leave salary etc., are in the nature of property and such right cannot be taken away without following due process of law; further, the grant of pension is not a bounty and the Government is obliged to follow the relevant Rules in that regard; Also that, the delay in settlement of retiral benefits and payment of pension is frustrating the employees and the same could have been compensated by way of interest."

"22. In view of the above, the respondent authorities are directed to consider the claim of the petitioner in line with the observations made in the earlier Paragraph Nos. 4 to 20 of this order and pay the benefits accordingly. Insofar as the interest on belated payment of retiral benefits is concerned, considering the facts and circumstances of the case and having regard to the present day cost of living, the respondent authorities are directed to pay interest at 8% per annum, from the date of entitlement till the date of payment of entire amount, failing which, the same shall carry penal interest at 18% p.a. for the default period. Such an exercise shall be completed, within a period of six weeks from the date of receipt of a copy of this order."

4. Following the aforesaid order, this writ petition stands disposed of directing the respondent authorities to consider the claim of the petitioner in line with the observations made in the Paragraph Nos. 4 to 20 of the order dated 28.02.2019 passed in WP(MD) No. 20107 of 2018 and pay the benefits accordingly. Insofar as the interest on belated payment of retiral benefits is concerned, considering the facts and circumstances of the case and having regard to the present day cost of living, the respondent authorities are directed to pay interest at 8% per annum, from the date of entitlement till the date of payment of entire amount, failing which, the same shall carry penal interest at 18% p.a. for the default period. Such an exercise shall be completed, within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

/ True Copy /



The Executive Engineer,
TANGEDCO,
Sivagangai Distribution Circle,
Sivagangai.

+1CC to Mr.RM.ARUN SWAMINATHAN, Advocate (SR-50567[F] dated 28/02/2019)

+1 CC to M/s.SPL GP (SR-50911[F] dated 01/03/2019)

W.P (MD) No.17637 of 2018
28.02.2019

ES/13.05.2019/3P/4C