



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.A.(MD).No.1018 of 2019

and

C.M.P.(MD).No.9338 of 2019

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation
Kilpauk, Chennai-600 010.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Madurai-625 020.

... Appellants/Respondents

Vs.

N.Govindaraj

... Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent, against the order passed by this Court in W.P.(MD).No.10643 of 2014 dated 18.12.2018.

Prayer in WP(MD). 10643/ 2014 :

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 first respondent relating to his memo Na.Ka. No.AE7/45854/2014 dated 29.05.2014 and quash the last paragraph of the orders dated 29.05.2014 and consequently direct the respondents to pay 18% interest fro the delayed payment of all the retirement benefits referred to in the impugned orders dated 29.05.2014 under Item Nos.1 to 6 within a specified time frame that may be fixed by this Honourable Court.

For Appellants :Mr.Rajakarthikeyan

For Respondent :Mr.S.Visvalingam



JUDGMENT

(Judgment of this Court was made by **T.S.SIVAGNANAM, J**)

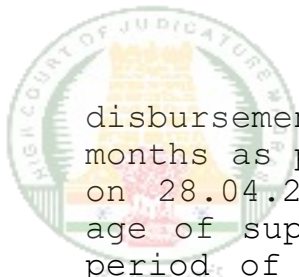
This appeal filed by the Tamil Nadu Civil Supplies Corporation, is directed against the order passed in W.P.(MD).No.10643 of 2014, dated 18.12.2018.

2.The respondent/writ petitioner filed the said writ petition to quash the order passed by the first appellant dated 29.05.2014 and consequently to direct the appellant to pay interest at 18% p.a., for the delayed payment of retirement benefits referred to in the impugned order dated 29.05.2014. The Writ Court, by the impugned order dated 18.12.2018, directed the payment of interest at 9% within a stipulated time. The appellant Corporation is aggrieved by such order and preferred the present appeal.

3.We have heard Mr.Rajakarthikeyan, learned counsel appearing for the appellants and Mr.S.Visvalingam, learned counsel appearing for the respondent.

4.The fact that there has been delay in disbursement of various benefits, is not in dispute. The appellant Corporation would contend that the delay is on account of the pendency of the writ petition filed by the respondent requesting for re-fixation of his seniority and consequent promotional and monetary benefits. It is not in dispute that the writ petition was finally disposed of on 03.09.2010 and the respondent was successful. Consequently, the appellant Corporation had to implement the order and give all other consequential service and monetary benefits, as the respondent/writ petitioner had retired from service on attaining the age of superannuation on 30.06.2007.

5.From the materials placed before us, we find that there has been a delay at different stages, while effecting payments due to the respondent/writ petitioner. The appellant Corporation seeks to justify their action by stating that after the writ petition was disposed of, the respondent had to be notionally elevated as special grade in the cadre of Superintendent with effect from 2005. Thereafter, the pay has to be revised in the cadre of selection grade Superintendent and Special Grade Superintendent and all these proceedings have to be completed which undoubtedly would be time consuming, but the appellant Corporation took effective steps to do the same at the earliest and disbursal have been effected between 2011-13. From the proceedings dated 29.05.2014, which was impugned in the writ petition, it is clear that the date on which the payments were released have been mentioned. It is undoubtedly true that the disbursement of amount on account of notional re-fixation of the respondent in the higher scale of pay etc is time consuming. Nevertheless, the writ petition was disposed of in the year 2010, and even going by the said date, there has been delay in



disbursement viz., one such amount being the leave encashment for 8 months as per the old scale of pay at Rs.41,528/- was disbursed only on 28.04.2011, though the respondent/writ petitioner attained the age of superannuation on 30.06.2007. Similarly there has been some period of delay for disbursement of the other allowances. Thus, the appellant cannot take a stand that there has been no delay in disbursement and only because of re-fixation and revision of scale of pay, the delay had occurred. If the respondent's seniority had been appropriately fixed at the appropriate time, the respondent would not have come before to this Court seeking payment of interest. Having driven the respondent/writ petitioner to the Court for appropriate fixation of the seniority consequences which will flow from the order passed by the Court has to be necessarily accepted by the appellant Corporation. There is no escape from payment of interest, which would be termed as compensatory. Since there are complicated calculations involved while arriving at the interest, this Court is of the view that the consolidated amount can be fixed and the matter may be given a quietus. This course suggested by this Court cannot be objected by the appellant Corporation.

6.Thus, for the above reason, we do not find any good reason to interfere with the finding rendered by the learned Single Bench, but inclined to modify the impugned order only with regard to the observation in paragraph No.16 by directing that a sum of Rs.50,000/- to be paid to the respondent/writ petitioner as compensation for the delayed disbursement of various benefits, which the respondent/writ petitioner was legitimately entitled to consequent upon the direction issued by the Court in the year 2010. This amount shall be computed and paid to the respondent/writ petitioner within a period of 8 weeks from the date of receipt of a copy of this judgment.

7.With the above observation, this Writ Appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation

<https://hcservices.tn.gov.in/hcservices/>
Chennai-600 010.



2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Madurai-625 020.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-91884[F] dated
15/10/2019)

W.A. (MD) .No.1018 of 2019

and

C.M.P. (MD) .No.9338 of 2019

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