



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1227 of 2019

and

C.M.P. (MD)No.10541 of 2019

The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

... Appellant/2nd Respondent

Vs.

1.Thoothukudi Nagaratchi Managaratchi
Oyyoothiya Aluvalargal Sangam,
Reg.No.42/2018,
No.211, Pathirakaliamman Kovil Street,
Thoothukudi-628 002,
Rep.by the Secretary,
M.Sudalai Muthu.

... 1st Respondent/Petitioner

2.The Commissioner of Municipal Administration,
Chepuak,
Chennai-600 005.

.. 2nd Respondent/1st Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to call for the records in W.P.(MD)No.23879 of 2018 dated 03.12.2018 on the file of this Court and to set aside the same.

Prayer in WP(MD). 23879/ 2018 :

Writ Petition filed under Article 226 of the Constitution of India, for issuance of writ of Mandamus, to direct the second respondent to provide the arrears of interest for the subscription amount deducted from the salary of the employees of the Petitioner Association towards the General Provident Fund while in service along with Dearness Allowance Arrears and Vth Pay Commission Arrears and Revised pay Commission Arrears by considering the Petitioners representations dated 20.06.2018, 22.06.2018, 26.06.2018, 18.07.2018, 31.07.2018, 02.08.2018 and 06.08.2018 within the time stipulated by this Court.

For Appellant
For R1
For R2

: Mr.S.Saji Bino
: Mr.S.Louis
: Mr.A.K.Baskara Pandian
Special Government Pleader



JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Saji Bino, learned counsel for the petitioner, Mr.S.Louis, learned counsel for the first respondent and Mr.A.K.Baskara Pandian, learned Special Government Pleader for the second respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. The Commissioner of Thoothukudi Municipal Corporation is the appellant before us challenging the correctness of the order made in W.P.(MD)No.23879 of 2018, dated 03.12.2018 filed by the first respondent Organisation, which consists of members, who are the erstwhile employees of the appellant Corporation.

3. The prayer sought for in the writ petition was to direct the appellant to provide the arrears of interest in respect of the subscription amount deducted from the salary of the employees of the respondent association. Since the respondent Association submitted more than seven representations and interest was not paid, they moved the writ Court. The appellant Corporation raised preliminary objection with regard to the maintainability of the writ petition stating that to claim service benefits the writ petition filed by the Association is not maintainable.

4. The learned writ Court while keeping the preliminary objection aside examined the grievance of the respondent Association and took note of the proceedings of the appellant Corporation, dated 24.08.2018, where the decision was taken by the Corporation to pay the interest, however in a phased manner. That is by classifying the retired employees into two sets, i.e., those who have retired between 1985 and 2006 and those who have retired after 2006.

5. Considering these facts, the writ petition was disposed of by issuing appropriate direction and fixing time frame within which, the interest has to be disbursed. Challenging the above order, the appellant Corporation is before us contending that the claim for interest is not payable and the financial crisis in this regard will be excessive and would be detrimental to the interest of the respondent Corporation.

6. In our considered view, the learned Single Bench had taken note of the decision of the appellant Corporation, which was intimated to the respondent Association vide communication dated 24.08.2008 and fixed time limit, within which disbursement should be effected. We see no reason to interfere with the order passed in the writ petition.



7. The learned counsel for the respondent would submit that in the light of the objection raised by the appellant Corporation with regard to the maintainability of the writ petition at the instance of the Association, to avoid any technical objection being raised, all the retired employees had filed a batch of writ petitions in W.P.(MD)Nos.1584 to 1604 of 2019, W.P.(MD)Nos.8173 to 8199 of 2019 and W.P.(MD)Nos.10208 to 10214 and those writ petitions have been disposed of by an order dated 28.01.2019, 05.04.2019 and 26.04.2019, respectively on the ground that the impugned order before us sufficiently protects the interests of the retired employees / writ petitioners.

8. Considering these facts, we are of the view that the appellant Corporation has not made out any ground to interfere with the order passed in the writ petition. However, we make a slight modification to paragraph 4 of the impugned order, dated 03.12.2018 by permitting the appellant Corporation to comply with the order within the time stipulated, which shall commence from the date of receipt of a copy of this judgment, by effecting payment in four equal instalments and the first of such instalment shall be made on or before 16.12.2019. Subsequent instalments shall be made on or before 16th of every succeeding English calendar month.

9. With the above observations, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (cel side)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Commissioner of Municipal Administration,
Chepuak,
Chennai-600 005.

2. The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

+1 CC to M/s.S.SAJI BINO, Advocate (SR-99132[F] dated 18/11/2019)
+1 CC to M/s.S.LOUIS, Advocate (SR-99524[F] dated 19/11/2019)

ORDER MADE IN
W.A. (MD)No.1227 of 2019
18.11.2019

VB (27.11.2019) 3P 5C

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