BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.09.2019**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.3161 of 2016

K.Ganesan ... Petitioner

Vs.

1.The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-01.

2.The Accountant General, (A &E),
Anna Salai,
Teynampet,
Chennai.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District. ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the Death Cum Retirement Gratuity amount of Rs.11412/- payable to the petitioner with interest at the rate of 15% p.a., from 1994 to till the date of realisation along with compensation of Rs.2,00,000/- and also award cost within a period of time that may be stipulated by this Court.

For Petitioner : Mr.S.Siva Ilayaraja

For R1, R3 & R4 : Mr.VR.Shanmuganathan,
Special Government Pleader

For R2 : Mr.P.Gunasekaran

ORDER

The present writ petition is filed seeking for a mandamus directing the respondents to disburse the Death Cum Retirement Gratuity amount of Rs.11,412/- payable to the petitioner with interest at the rate of 15% p.a., from 1994 to till the date of realisation along with compensation of Rs.2,00,000/- and also award cost within a period that may be fixed by this Court.

2.The petitioner's brother while working as Revenue Assistant died on 06.06.1993. While he was alive, he divorced his wife Amaravathy in the year 1983. He did not have any children. After his death, sister of the deceased and another brother gave no objection on the gratuity paid to the petitioner, who is one of the brother of the deceased. The petitioner has produced all the documents required by the fourth respondent including succession certificate. The first respondent, by considering the materials placed before him issued G.O.(MS)No.108, Revenue Department, dated 31.03.2009, ordering payment of gratuity amount to the petitioner, payable to the deceased for a sum of Rs.11,412/-.

3. Inspite of the same, the respondents 2 to 4 have failed to pay the amounts to the petitioner except sending one another proposal and the fourth respondent sending reminder to the second respondent. Hence, the petitioner has come out with the present writ petition.

4. The learned Special Government Pleader appearing for the respondents 1,3 & 4 submitted that on receipt of the documents produced by the petitioner, the proposal was sent to the first respondent, who vide G.O.(Ms)No.108, Revenue Department, dated 31.03.2009, ordered payment of gratuity amount of Rs.11,412/- to the petitioner, payable to the deceased. On receipt of the said Government Order, the respondents 3 and 4 took immediate steps and sent the proposal to the second respondent on 20.05.2014. The first letter was sent by the fourth respondent to the second respondent on 16.09.2009 enclosing the Government Order. The fourth respondent sent reminders on 20.05.2014, 19.08.2014 and 10.10.2014 and 30.01.2015. The second respondent after six years, by his letter, dated 11.03.2015, called upon the fourth respondent to submit the service register. The fourth respondent submitted the service register of the deceased to the second respondent by his covering letter, dated 20.03.2015. The respondents 1,3 and 4 have taken prompt action to disburse the gratuity amount payable to the deceased to the petitioner and there is no delay on the part of the respondents 1,3 & 4 and prayed for dismissal of the writ petition.

5. Mr.P.Gunasekaran, learned counsel appearing for the second respondent contended that the second respondent has not received any proposal from the fourth respondent till date and the second respondent required the service register of the deceased, so as to sanction the gratuity amount to be paid to the brother of the

deceased and required particulars. As and when the proposals are received by the second respondent, orders will be passed within a week and prayed for dismissal of the writ petition.

6. From the records, it is seen that after the death of the petitioner's brother on 6.6.1993, the petitioner has taken steps to get DCRG payable to his brother, who died, while in service on 6.6.1993. The first respondent ordered payment of the amount to the petitioner as early as on 31.3.2009 by issuing Government Order in G.O.Ms.No.108, Revenue Department, dated 31.03.2009. The fourth respondent, by the proceedings, dated 16.09.2009, requested the second respondent to pass orders releasing the gratuity amount payable to the deceased quoting G.O.Ms.No.108, Revenue Department, dated 31.03.2009 issued by the first respondent. The second respondent, after number of reminders, only by the letter, dated 11.3.2015, called upon the fourth respondent to submit the service register of the deceased. Even though the fourth respondent submitted the Government Order in G.O.Ms.No.108, dated 31.03.2009, as early as on 16.09.2009 to the second respondent, the second respondent did not take any action till 11.03.2015. Even after, the fourth respondent has sent service register to the second respondent, by covering letter, dated 20.03.2015 to the second respondent, the second respondent has not passed any orders releasing the gratuity amount till 09.02.2016 when the writ petition was filed. Till date no order is passed. The learned counsel for the second respondent submitted that no proposal was received by the second respondent. The petitioner filed copies of proceedings of fourth respondent dated 16.09.2009 and the Government Order in G.O.Ms.No.108, dated 31.03.2009. The second respondent has not filed any counter denying the same. The second respondent has failed to act as responsible person holding the higher post of Accountant General. This in-action of the second respondent shows inefficiency and also failure to consider the problems faced by the persons like the petitioner, who is unable to get the meagre amount of Rs.11,412/- from 6.6.1993 till date.

7. Considering all the materials, the second respondent is directed to pass orders releasing the gratuity amount together with 18% interest from 6.6.1993/the date of death of the brother of the petitioner, within two weeks.

8. The learned counsel for the second respondent is directed to inform about the order to the second respondent and instructed him to comply with the order, within the time limit fixed by this Court.

9. In view of the violation on the part of the second respondent to pay the amount of Rs.11,412/- even after issuing the Government Order by the first respondent, the second respondent is directed to pay a sum of Rs.25,000/- as cost to the petitioner.

10.

10. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-01.

2.The Accountant General, (A &E),
Anna Salai,
Teynampet,
Chennai.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

+1 CC to Mr.S. SIVA ILAYARAJA, Advocate SR-85246.
+1 CC to Mr.P.GUNASEKARAN, Advocate SR-85938.

W.P.(MD)No.3161 of 2016
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CS(24.09.2019) 4P 7C