

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 15.12.2020

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.7131 of 2020

S.Venkatachalam

...Petitioner

Vs.

1.The Principal Secretary to Government,
Animal Husbandry and Dairy Development
Department,
Secretariat, Chennai - 9.

2.The Commissioner for Milk Production
and Dairy Development,
Chennai - 51.

3.The Deputy Registrar [Dairying],
Dairy Development Department,
Villupuram - 605 401.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, directing the respondents 1 & 2 to dispose of the appeal of the petitioner dated 10.12.2019 to pay a sum of Rs.3,01,781/- in the light of the report of the third respondent within the time limit as per the orders made in W.P.No.9941 of 2015 dated 03.06.2015 which was affirmed in W.A.No.2517/2018 dated 20.11.2018.

For Petitioners: Mr.S.Vijayakumar

For Respondents: Mr.L.P.Shanmuga Sundaram,
Special Government Pleader

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ORDER

The case of the petitioner is that he was a Government Servant in the Dairy Development Department during the period from 18.07.1963 to 31.01.1981. The petitioner was permanently absorbed thereafter in the service of the Tamil Nadu Cooperative Milk Producer's Federation Limited from 1981 and on 30.06.1995, after attaining age of superannuation, he retired from service.

2. According to the petitioner, that in terms of G.O.Ms.No.1921 Agriculture [MP-I] Department dated 08.11.1983, providing for settlement of terminal benefits to the absorbed Government servants immediately on they being absorbed, had not been followed in his case. According to the petitioner that after a long struggle in having the issues settled, the Department has sanctioned provisional pension and arrears was paid only on 13.09.2013 after a delay of 18 years and 2 months after his retirement.

3. In the above circumstances, the petitioner appears to have approached this Court in W.P.No.9941 of 2015 seeking direction to the respondents to pay interest and this Court was pleased to dispose of the Writ Petition on 03.06.2015 with the following directions;

"(i) Respondents 1 & 2 are directed to pay the DCRG with interest as provided under the Tamil Nadu Pension Rules, for the service rendered by the petitioner in the Government, within a period of twelve weeks from the date of receipt of copy of this order.

(ii) Respondents 1 & 2 are directed to pay interest at the rate of 10% for the belated payment of provisional pension, within a period of twelve weeks from the date of receipt of a copy this order, as per the Division Bench judgment of this Court referred to above."

4. The respondents being aggrieved by the above direction, approached the Division Bench of this Court in W.A.No.2517 of 2018, but the same was dismissed with cost of Rs.10,000/-. The respondents even after the dismissal of Writ Appeal with cost, have not complied with the orders of this Court and therefore, the petitioner was constrained to file a Contempt Petition in Cont.P.No.2183 of 2018 and notice was issued in the Contempt Petition.

5. In order to escape from the wrath of this Court, the first respondent hurriedly issued G.O.[D]No.175, Animal Husbandry, Dairying and Fisheries [MP.II] Department dated 06.06.2019 granting a sum of Rs.4,68,504.77 towards interest on the delayed payment of DCRG. However, according to the petitioner, he was actually entitled to be paid a sum of Rs.7,70,286/-. There was a wrong calculation of interest by not following the relevant Rule on the subject matter.

6. In order to claim the entire interest, the petitioner has once again approached the second respondent with his representation on 10.12.2019 seeking to recalculate the payment of interest correctly. The third respondent after appreciating

the representation of the petitioner has also forwarded the proposal to the second respondent with reference to relevant documents on 06.01.2020. In fact, according to the third respondent, there has been a deficit of Rs.3,01,781/- towards balance amount of interest payable and in that context recommended the payment of the said amount. However, unfortunately no action was forthcoming from the first respondent towards settlement of the amount as indicated above. Therefore the petitioner is once again before this Court for the above stated relief.

7. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner reiterated the above facts and stated that the petitioner herein is 85 years old and has been already made to run from pillar to post for getting his dues from the Authorities. Therefore, he would request this Court to give a direction to the Authorities once again to issue appropriate orders in settlement of the amount due to him which was already due and payable for several years now.

8. On notice, Mr. L.P. Shanmuga Sundaram, learned Special Government Pleader has entered appearance and would submit that any direction issued by this Court would be complied with immediately without any further delay.

9. In view of the above factual narrative, this Court finds that the first respondent has unduly delayed the settlement of interest that is due and payable to the petitioner for several years now. Despite the direction of this Court by a learned Single Judge and as affirmed by the learned Division Bench of this Court in the aforementioned Writ Appeal, yet the orders have not been fully complied with. The petitioner ultimately was given a partial settlement but yet there is a deficit amount outstanding which is yet to be settled to him, as on date.

10. In the fitness of things, this Court is of the view that no further delay shall occasion in the matter, as the petitioner is 85 years old now and therefore this Writ Petition is disposed of as under;

'The first respondent is directed to pass appropriate orders by settling the deficit amount of Rs.3,01,781/- to the petitioner as recommended by the third respondent in the Writ Petition within a period of four weeks from the date of receipt of copy of this order. It is made clear that no further time would be granted by this Court and in case, no orders are passed by the first respondent within the time stipulated, this Court would be constrained to view the issue seriously and initiate suitable action

against the Officials concerned.

11.The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-)

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Sub Assistant Registrar

mrm

To

1.The Principal Secretary to Government,
Animal Husbandry and Dairy Development
Department,
Secretariat, Chennai - 9.

2.The Commissioner for Milk Production
and Dairy Development,
Chennai - 51.

3.The Deputy Registrar [Dairying],
Dairy Development Department,
Villupuram - 605 401.

+1cc to Mr.S.Vijayakumar, Advocate, S.R.No. 41051

+1cc to the Special Government Pleader, S.R.No. 41282

AJS (CO)
GN(17/02/2021)

W.P.No.7131 of 2020

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