BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.02.2020**

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P(MD)Nos.12316 of 2012 and 8687 of 2014

and

M.P(MD)No.1 of 2012

A.Thangam .. Petitioner in both W.Ps.

Vs.

1.The Principal Accountant General (A&E),
Office of the Principal Accountant General,
261, Annasalai,Teynampet,
Chennai 600 018.

2.The Sub-Treasury Officer,
Sub-Treasury,
Uthamapalayam,
Theni District. .. Respondents in both W.Ps.

PRAYER IN W.P(MD)No.12316 of 2012: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to disburse the difference in commuted value of pension (Rs.1,77,399/-) and the difference in DCRG (Rs.1,64,688/-) due to the petitioner, based on the order No.Pen.EDP/ PPO.No.C362849/PCR/2009-10, dated 05.01.2010, passed by the first respondent along with interest at 18% annum for the delay in payment of above amounts from 05.01.2010 (i.e., date of sanction) to the date of payment of above amounts, within a time limit to be fixed by this Court and pass such further or other orders.

PRAYER IN W.P(MD)No.8687 of 2014: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to pay interest at 18% per annum for the period (05.01.2010 to 04.04.2013) i.e., from the date of sanction of the above said commuted value of pension of Rs.1,77,399/- as well as DCRG amount of Rs.1,64,688/- and to the date of actual payment to the petitioner within a time limit to be fixed by this Court and pass such further or other orders.

For Petitioner in both WPs.	: Mr.A.Thirumurthy
For Respondent No.1 in both WPs.	: Mr.P.Gunasekaran
For Respondent No.2 in both WPs.	: Mr.S.Dhayalan, Government Advocate.

COMMON ORDER

W.P(MD)No.12316 of 2012 has been filed for issuance of a Writ of Mandamus to direct the respondents to disburse the difference in commuted value of pension (Rs.1,77,399/-) and the difference in DCRG (Rs.1,64,688/-) due to the petitioner, based on the order No.Pen.EDP/PPO.No.C362849/PCR/2009-10, dated 05.01.2010, passed by the first respondent along with interest at 18% per annum for the delay in payment of above amounts from 05.01.2010 (i.e., date of sanction) to the date of payment of the above amounts.

2.W.P(MD)No.8687 of 2014 has been filed for issuance of a Writ of Mandamus to direct the respondents to pay interest at 18% per annum for the period (05.01.2010 to 04.04.2013) i.e., from the date of sanction of the difference in commuted value of pension of Rs.1,77,399/- as well as DCRG amount of Rs.1,64,688/- and to the date of actual payment to the petitioner.

3.The case of the petitioner is that her husband namely S.Muthumani had worked as P.G.Assistant in the Government Higher Secondary School, Odaipatti, Theni District and retired from service on attaining the age of superannuation on 31.01.2009. Her husband had received pension, DCRG, Commuted value of pension, etc. While so, the petitioner's husband died on 08.12.2009. As per 7th Pay Commission, the pay and pensionary benefits of her husband has been sanctioned in December, 2009 as per G.O.Ms.No.234 (PC) Finance Department, with effect from 01.01.2006. The 1st respondent has issued the “Authorisation of Revision of Pension/Gratuity/Commutation” to her husband vide Order No.Pen.EDP/PPo.No.C362849/PCR/2009-10, dated 05.01.2010. As per the orders of the 1st respondent, the 2nd respondent paid the life time arrears as well as revised family pension to her. Though the 1st respondent sanctioned the difference in commuted value of pension as well as difference in DCRG, vide order, dated 05.01.2010, the same has not been paid to the petitioner. Therefore, the petitioner filed W.P(MD)No.12316 of 2012 seeking to direct the respondents to disburse the said amounts along with interest at the rate of 18% per annum from 05.01.2010 till the date of payment. Pending W.P(MD) No.12316 of 2012, the respondents have settled the said amounts on 04.04.2013. Though the 1st respondent sanctioned the said amounts on 05.01.2010, the respondents have settled the same on 04.04.2013. Therefore, she gave a representation dated 13.07.2013 seeking interest for the delay period, which evoked no response. Therefore, she has come up with W.P(MD)No.8687 of 2014.

4.The learned counsel appearing for the petitioner submitted that though the 1st respondent sanctioned the difference in commuted value of pension as well as difference in DCRG, vide order, dated 05.01.2010, the same has not been paid to the petitioner. Therefore, the petitioner has filed W.P(MD)No.12316 of 2012 seeking to direct the respondents to disburse the said amounts along with interest at the rate of 18% per annum from 05.01.2010 till the date of payment. Pending W.P(MD)No.12316 of 2012, the respondents have settled the said amounts on 04.04.2013. Therefore, the petitioner is entitled for interest for the delayed period i.e., from 05.01.2010 to 04.04.2013 and she made a representation to the respondents, which evoked no response. Therefore, she has filed W.P (MD)No.8687 of 2014.

5.The learned counsel appearing for the 1st respondent drawing the attention of this Court to the counter affidavit filed by the 1st respondent submitted that though the petitioner's husband died on 08.12.2009, the petitioner forwarded the death certificate and legal heir certificate to the 1st respondent, only in the month of August 2012. In the absence of death certificate and legal heir certificate, they are not able to issue authorization and therefore, the delay has occurred in the paying the said amounts. Thus, he prayed to dismiss the writ petitions.

6.In reply, the learned counsel for the petitioner relying on the Sanction of Family Pension Order, in No.2681/2008/A2, dated 04.01.2010, which has been produced in the typed-set of papers, submitted that in the said proceedings, the Assistant Treasury Officer, Uthamapalayam, has stated that the petitioner produced the death certificate of her husband and other documents.

7.Heard the learned counsel appearing for the petitioner, learned counsel appearing for the 1st respondent and the learned Government Advocate appearing for the 2nd respondent and perused the materials available on record.

8.The petitioner is the wife of the deceased employee, viz., S.Muthumani and he died on 08.12.2009 before receiving the revised pensionary benefits as per 7th Pay Commission. Perusal of record shows that the Assistant Treasury Officer, Uthamapalayam in his letter No.2681/2008/A2, dated 04.01.2010 has specifically referred the letter dated 29.12.2009 of Tmt.A.Thangam, the petitioner herein, wherein it has been specified by the Assistant Treasury Officer, Uthamapalayam that the applicant Tmt.A.Thangam, wife of late.S.Muthumani has produced the death certificate and other documents. From the above, it is evident that the petitioner had produced the death certificate and related documents prior to 04.01.2010 itself. Therefore, it cannot be said that the petitioner has submitted the death certificate belatedly and the contention raised on the side of the 1st respondent cannot be accepted. The difference in commuted value of pension as well as difference in DCRG, were paid only on 04.04.2013. Therefore, the petitioner is entitled for interest at the rate of 12% per annum for the delayed period, as per Rule 45-A of the Tamil Nadu Pension Rules.

9.In view of the above, the respondents are directed to pay interest at the rate of 12% per annum for the delay in payment of difference in commuted value of pension as well as difference in DCRG, i.e., from 05.01.2010 to 04.04.2013, within a period of twelve weeks from the date of receipt of a copy of this order.

10.With the above direction, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Principal Accountant General (A&E),
Office of the Principal Accountant General,
261, Annasalai, Teynampet,
Chennai 600 018.

2.The Sub-Treasury Officer,
Sub-Treasury,
Uthamapalayam,Theni District.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-6659[F] dated 17/02/2020)
+1 CC to M/s.SPL.GP (SR-6778[F] dated 18/02/2020)
+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-7173[F] dated 19/02/2020)

COMMON ORDER MADE IN
W.P(MD)Nos.12316 of 2012 and 8687 of 2014
21.02.2020

SMA/13/03/2020/4P/6C