



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.12438 of 2012

R.Raja

... Petitioner

vs.

1.The Secretary,  
Finance Department (Pay cell),  
State of Tamilnadu,  
Fort St. George, Chennai-600 009.

2.The Chief Engineer,  
Agricultural Engineering,  
Department of Agriculture,  
487, Annasalai, Nandanam,  
Chennai-600 035.

3.The Executive Engineer,  
Agricultural Engineering,  
Kalai Arangam Building,  
Williams Road, Tiruchirappalli-620 001.

4.The Assistant Executive Engineer,  
Agricultural Engineering,  
Tractor Workshop,  
Department of Agriculture,  
20, VOC Salai,  
Tiruchirappalli-620 001.

... Respondents

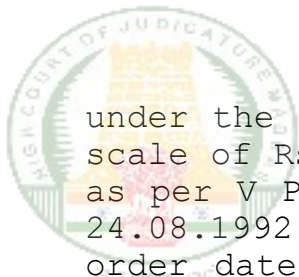
PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay or settle the gratuity amount of Rs.3,77,784/- payable to the petitioner on his retirement as a Welder, Department of Agricultural Engineering, Tiruchirappalli on 31.10.2010 with interest at the reasonable rate on the said amount.

For Petitioner : Mr.V.Nagarajan  
For Respondents : Mr.J.Gunaseelan Muthiah  
Additional Government Pleader

**ORDER**

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay or settle the gratuity amount of Rs.3,77,784/- payable to the petitioner on his retirement as a Welder, Department of Agricultural Engineering, Tiruchirappalli on 31.10.2010 with interest at the reasonable rate on the said amount.

2. The case of the petitioner is that he was served as a welder in the Agricultural Department of the State of Tamil Nadu and he was



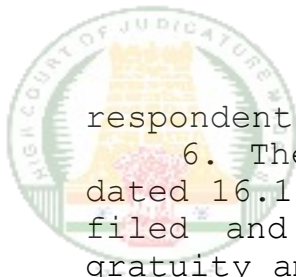
under the direct control of the third respondent. He was in the pay scale of Rs.610-1075 initially and moved to the scale of Rs.950-1500 as per V Pay Commission by G.O.Ms.No.664, Finance Department, dated 24.08.1992. The State has extended the said benefit to him by an order dated 10.11.1993 by granting 5% of the basic pay as personal pay. But, subsequently, without notice, the third respondent herein issued Proceedings No.A.3393/1994 dated 16.12.1994, cancelling the aforesaid order and issued recovery orders against the individuals. Aggrieved over the same, the petitioner along with others questioned the said order of cancellation by filing O.A.No.267 of 1995 before the Hon'ble Tamil Nadu Administrative Tribunal, Madras and an order of interim stay of the proceedings was obtained on 24.01.1995 till 07.07.1995 and the same was extended until further furthurs. Subsequently, the Original Application No.267/1995 was transferred to the Hon'ble Madras High Court, Madras and renumbered as W.P.No.18185/2006. The Principal Seat at Madras was pleased to allow the writ petition on 04.01.2008 by quashing the order, dated 16.12.1994 of the third respondent.

3. He further submitted that there was a threat in withholding all his retirement benefits by issuing a letter on 29.10.2010 by the fourth respondent at the time of his retirement. The entire gratuity was withheld. Since the withholding of the gratuity at the time of retirement is illegal, he gave a representation on 01.03.2011 to the second respondent and requested him to release the gratuity amount. The aforesaid fact was also brought to the knowledge of the District Collector, Trichy for intervention. Thereafter, the petitioner's wife has sent a detailed representation to the Hon'ble Chief Minister of Tamil Nadu on 06.09.2011. Only to the said letter, the second respondent issued a reply by stating that the fourth respondent herein has advised to release the gratuity amount after withholding the 5% personal pay of Rs.60,600/- ignoring the order of this Court. Thereafter, the fourth respondent issued a memorandum on 04.01.2012 requesting him to send a consent letter for withholding 5% personal pay of Rs.60,600/-. The said amount of Rs.60,600/- represents the 5% personal pay paid for the period between 01.08.2002 and 31.10.2010. On receipt of the said letter from the fourth respondent, he issued a detailed reply on 19.01.2012 by pointing out the order of this Court in quashing the order dated 16.12.1994 of the fourth respondent in cancelling the payment of personal pay and expressed his difficulty in issuing such consent letter. The Superintending Engineer, Agricultural Engineering, Trichy and the third respondent issued reply on 23.02.2012 and 10.04.2012 respectively and reiterated their stand taken earlier. Hence, the petitioner has filed the present writ petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that the respondent concerned may be directed to consider the said request of the petitioner within a time stipulated by this Court.

5. Heard the learned counsel appearing for the petitioner and

Additional Government Pleader appearing for the



respondents and perused the materials available on record.

6. There is an order passed by this Court quashing the order dated 16.12.1994 issued by the third respondent. There is no appeal filed and the order has to be implemented and withholding the gratuity amount is per se illegal and order has to be complied with.

7. In view of the above facts, this Court directs the respondents to pay the gratuity amount of Rs.3,77,784/- payable to the petitioner on retirement as Welder in the Agricultural Department of the State of Tamil Nadu, within a period of three months from the date of receipt of a copy of this order as per G.O. (MS) No.122, Finance (Retirement benefit) Department, dated 20.02.1995.

8. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

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20, VOC Salai, Tiruchirappalli-620 001.

+1 CC to M/s.V.SITHARANJANDAS, Advocate ( SR-10851[F]

+1 CC to M/s.SPL.GP ( SR-11051[F] dated 11/03/2020 )

**W.P (MD) No.12438 of 2012**

**10.03.2020**

**SMA/24/03/2020/3P/7C**