



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD)No.841 of 2020

and

C.M.P. (MD) No.4646 of 2020

1.The Secretary to Government,
Highways Department,
Secretariat,
Chennai - 600 009.

2.The Chief Engineer (General),
Highways Department,
Chepauk,
Chennai - 600 005.

... Appellants/Respondents

Vs.

1.F.Babu,
Divisional Accountant (Retired),
Project Division - I,
Highways,
Madurai - 2.

... 1st Respondent/Writ Petitioner

2.Accountant General (A& E),
Tamil Nadu,
Chennai - 600 018.

... 2nd Respondent/3rd Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P.(MD)No.4862 of 2016, dated 28.02.2019.

Prayer in WP(MD). 4862/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to pay interest for the belated payment of his retirement benefits which is due to him from the date of his retirement on 28.02.2007 in terms of G.O.Ms.No.122/Finance dated 20.12.1995.

For Appellant : Mr.K.P.Krishnadoss
Special Government Pleader

For 1st Respondent : Mr.S.Govindan

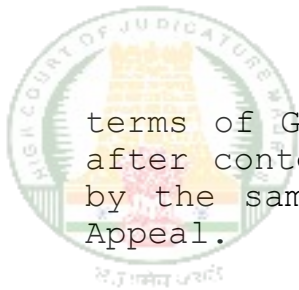
For 2nd Respondent : Mr.P.Gunasekaran

J U D G M E N T

(Judgment of the Court was delivered by M.SATHYANARAYANAN, J)

The official respondents 1 and 2 in W.P.(MD) No.4862 of 2016, filed by the first respondent/writ petitioner, are the appellants.

2.The first respondent filed the said Writ Petition, praying for issuance of the Writ of Mandamus, directing the first respondent to pay interest for the belated payment of his retirement benefits which is due to him from the date of his retirement on 28.02.2007 in



terms of G.O.Ms.No.122/Finance dated 20.02.1995. The Writ Petition, after contest, came to be allowed vide impugned order and aggrieved by the same, the official respondents 1 and 2 preferred this Writ Appeal.

3.The petitioner was appointed as Record Clerk on 11.04.1969 and got his regular promotions and while he was working as Divisional Accountant, he was served with a charge memo dated 31.07.2006 with regard to purchase and utilization of bitumen for laying road works in his division. The first respondent/writ petitioner has submitted his explanation for the charge memo on 07.09.2006 and on the verge of his retirement, he was placed under suspension and retained in service for facing the disciplinary proceedings. The disciplinary proceedings were completed on 30.09.2014 and subsequently, his pension proposals were sent on 03.11.2014 to the third respondent and after authorization by the Accountant General on 05.01.2015, the DCRG and other terminal benefits were paid to the first respondent on 12.12.2015.

4.In sum and substance, it is the contention of the appellants/ respondents 1 and 2 in the Writ Petition that immediately after the conclusion of the proceedings on 30.09.2014, all the retirement benefits have been paid to the first respondent/writ petitioner within one year and as such, he is not entitled to any interest.

5.The learned Judge, after taking note of the facts and circumstances of the case as well as the order dated 28.02.2019, made in W.P.(MD) No.20107 of 2018, which extensively dealt with the issue relating to sanction of retirement benefits, pension and interest on belated payment of the same, disposed of the Writ Petition by directing the respondents in the Writ Petition to consider the claim of the petitioner in line with the observations made in paragraph Nos.4 to 20 of the above cited order and further taking into consideration the cost of living and inflation, ordered payment of interest at 8% per annum from the date of retirement till date of paying the same, failing which, shall pay penal interest at 18% p.m. for the default period. Challenging the same, the official respondents 1 and 2 have filed this Writ Appeal.

6.The learned Special Government Pleader appearing for the appellants would submit that immediately after the completion of the disciplinary proceedings, the retirement benefits have been settled and as such payment of interest at 8% p.a. with default interest at 18% p.a. are per se unsustainable and prays for interference.

7.The learned counsel for the first respondent/writ petitioner would submit that admittedly out of the 12 charge memos, only one charge memo has been dealt with and the petitioner has been imposed with minor penalty and considering the passage of time and



also the time taken for completing the disciplinary proceedings, the first respondent/writ petitioner did not want to aggravate the issue any further and pointed out that but for the disciplinary proceedings and the order of suspension, he would have been granted the terminal benefits without any delay and therefore, the learned Judge is perfectly right in ordering payment of interest and prays for dismissal of the Writ Appeal.

8.This Court considered the rival submissions and perused the materials placed on record.

9.Admittedly, 12 charge memos came to be issued on the verge of the date of superannuation of the petitioner on 28.02.2007 and he was placed under suspension and his services were also extended for the purpose of facing disciplinary proceedings. A perusal of the counter affidavit of the appellants in the Writ Petition did not disclose that the first respondent/writ petitioner has contributed for the delay in concluding the disciplinary proceedings. The disciplinary proceedings have been concluded and the first respondent was infringed with the punishment of cut of Rs.500/- p.m. for 6 months from his pension and a recovery of Rs.30,000/- from his DCRG for the loss caused to the Government and it was also accepted by him, on account of the fact that he has faced a long drawn disciplinary proceedings and his wife was suffering due to illness. It is also pointed out that but for the disciplinary proceedings, he would have retired on 28.02.2007 and disciplinary proceeding has been dragged on and completed only on 30.09.2014. The learned Judge has taken note of the order dated 28.02.2019, made in a similar Writ Petition in W.P.(MD) No.20107 of 2018 and rightly reached the conclusion to dispose of the Writ Petition with certain directions. In the considered opinion of this Court, the disposal of the Writ Petition by the learned Judge cannot be faulted in the absence of any error or infirmity. This Court, on an independent application of mind to the entire materials, is of the considered view that the Writ Appeal lacks merit.

10.In the result, the Writ Appeal is dismissed, confirming the order of the learned Single Judge dated 28.02.2019, made in W.P. (MD) No.4862 of 2016. Consequently, connected Miscellaneous Petition is also dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar ()

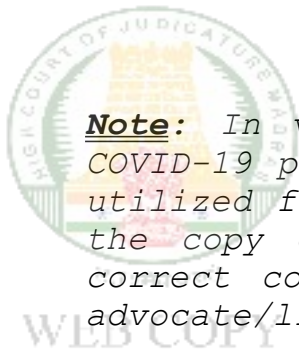
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Sub Assistant Registrar(CS)

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