



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2020

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

W.P (MD) No.16568 of 2014

P.Pandaram Pillai

.. Petitioner

Vs.

1.State of Tamil Nadu rep. by its
Secretary to Government,
Labour & Employment Department,
Secretariat, Chennai - 9.

2.Commissioner of Employment and Training,
Alandur Road, Guindy,
Chennai - 32.

.. 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 interest @ 12% p.a. for all the belated payment of terminal benefits such as commutation of pension, Death-Cum-Retirement Gratuity, General Provident Fund, Pension arrears, Encashment of earned leave, encashment of un-earned leave on private affairs and pass such further or other orders.

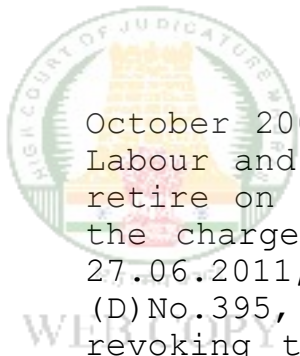
For Petitioner : Mr.V.Panneerselvam
for M/s.C.S.Associates

For Respondents : Mr.S.Dhayalan,
Government Advocate.

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents to pay interest @ 12% p.a. for all the belated payment of terminal benefits such as, commutation of pension, Death-Cum-Retirement Gratuity, General Provident Fund, Pension arrears, Encashment of earned leave, encashment of un-earned leave on private affairs.

2.The case of the petitioner is that he was working as District Employment Officer in Kanyakumari District. He was issued with a charge memo, dated 16.09.2009, for the incident tookplace during



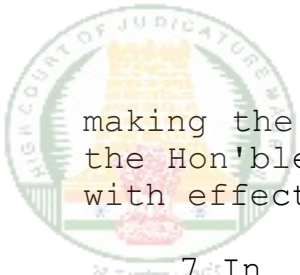
October 2007 and he was placed under suspension vide G.O.(2D)No.84, Labour and Employment, Department, dated 16.09.2009. He was due to retire on 30.09.2009. He filed W.P(MD)No.10032 of 2009 challenging the charge memo dated 16.09.2009 and this Court, vide order dated 27.06.2011, allowed the same. The Government issued order in G.O.(D)No.395, Labour and Employment Department, dated 08.12.2011 revoking the order of suspension and allowing him to retire from service and the period of suspension is treated as duty period. In view of the delay in issuing the above G.Os., he got the terminal benefits belatedly. Therefore, he made a representation, dated 23.11.2012, requesting to give 12% interest for the belated payment of terminal benefits, which evoked no response. Therefore, the petitioner has come up with the present writ petition.

3.The learned counsel for the petitioner submitted that though the charge memo has been set aside by this Court vide order dated 27.06.2011 made in W.P(MD)No.10032 of 2009, the petitioner has received the terminal benefits belatedly and the representation has also not been considered, by the second respondent. In support of his contention, the learned counsel would also rely on the judgment of the Hon'ble Supreme Court in **Vijay L.Mehrotra vs. State of U.P and others** reported in (2001) 9 SCC 687.

4.The learned Government Advocate appearing for the respondents drawing the attention of this Court to the counter affidavit filed by the 1st respondent submitted that 8% interest on death cum retirement gratuity from 30.09.2009 to 17.07.2012 has been drawn and disbursed to the petitioner. Due to the lapses on the part of the petitioner, the other terminal benefits were given belatedly.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6.Perusal of record shows that orders have been passed by this Court in W.P(MD)No.10032 of 2009 as early as on 27.06.2011 setting aside the charge memo. However, after a period of six months, G.O.(D)No.395, dated 08.12.2011 has been passed revoking the order of suspension and on 09.01.2012, G.O.(D)No.13 has been passed dropping the charges and thereafter, G.O.(D)No.173, dated 02.05.2012 has been passed treating the suspension period as duty period. Thereafter only, the petitioner was given the terminal benefits. Thus, there is a delay in disbursing the terminal benefits to the petitioner. The petitioner would have been benefited with retirement benefits on the date of his retirement itself. Further, in the judgment relied on by the petitioner, the Hon'ble Apex Court held that in case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement. Since there was no reason or justification for not



making the payments for months together in the above reported case, the Hon'ble Supreme Court ordered simple interest at the rate of 18% with effect from the date of retirement till the date of payment.

7. In my considered opinion, the said judgment is squarely applicable to the facts of this case. Therefore, the respondents are directed to pay the petitioner simple interest at the rate of 12% per annum, as claimed by the petitioner, with effect from the date of his retirement i.e., 30.09.2009 till the date of payment, within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
Labour & Employment Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. Commissioner of Employment and Training,
Alandur Road, Guindu,
Chennai - 32.

+1 CC to SPL.GP (SR-1318[F] dated 10/01/2020)

+1 CC to Mr.V.PANNEERSELVAM, Advocate (SR-1680[F] dated 13/01/2020)

ORDER MADE IN
W.P (MD) No.16568 of 2014
09.01.2020

VB(03.02.2020) 3P 5C