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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 20065 of 2009
and M.P.No. 1 of 2009

Er Dr. S.Sundaramoorthy

..Petitioner

Vs

1.The Secretary to Government, Administration & Water
Supply (Metro -2) Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600009.

2.Chennai Metropolitan Water Supply &
Sewerage Board,
Rep by its Managing Director,
Director, No.1, Pumping Station Road,
Chintadripet, Chennai-2.

3.The Director of Vigilance and Anti Corruption,
Chennai - 600028.

..Respondents

Prayer: writ petition is filed under Article 226 of Constitution of India for Writ of Certiorarified Mandamus, calling for the records in Letter No.CMWSWSB/P&A/LRR1/40902/03 dt.18.12.2008 on the file of the 2nd respondent and quash the same as illegal arbitrary and against the law and direct the respondent 1 and 2 to pay the interest in accordance with law.

For Petitioner : Mrs. Vinu pradha
For M/s. S.Rameshkumar

For Respondents : Mr.J.C. Durairaj, AGP - R1 & R3
Mr. T.Gowthaman - R2



O R D E R

The prayer in the writ petition is to call for the records in Letter No.CMWSWSB/P&A/LRR1/40902/03 dt.18.12.2008 on the file of the 2nd respondent and quash the same as illegal arbitrary and against the law and direct the respondent 1 and 2 to pay the interest in accordance with law.

2. The learned counsel for the petitioner has submitted that the writ petitioner was worked as Engineering Director under the 2nd respondent/Board and retired from service voluntarily on 23.05.1997. The 2nd respondent has settled the terminal benefits to the petitioner belatedly after lapse of 11 years. The learned counsel for the petitioner has further submitted that there was no disciplinary action against the petitioner, however the respondent dragged on the matter for 11 years for paying the terminal benefit on the guise of pending disciplinary proceedings against the petitioner, where there was no such proceedings against the petitioner. Further, the respondents were not able to produce the case file before the Court as to the case alleged by the respondent pending before the Anti Corruption authority. The petitioner has made representation to the respondent claiming interest for the belated payment, but the respondent has rejected the said request. According to the learned counsel for the petitioner, the delay in payment of terminal benefit and refusing to pay the interest for such inordinate delay is arbitrary and illegal.

3. Counter affidavit has been filed on behalf of the 2nd respondent. The learned counsel for the 2nd respondent submitted that the Director of Vigilance and Anti Corruption by letter dated 19.01.1999 informed that the investigation was taken up against the cases relates to the award of contract to Le viz. M/s.Larsen & Turbo for a value of Rs.10,35,74,105/- instead of L1 Viz M/s. Southern Structural Ltd., for the value of Rs.8,55,80,719 for the Krishna Water Project. Pending investigation, the matter was placed before the Board of Directors for settlement of terminal benefits to the petitioner in the meeting held on 20.02.1999 and it was resolved to keep the issue kept in abeyance until the receipt of final report from the Directorate of Vigilance and Anti-Corruption.

4. The learned counsel for the respondent has further submitted that in the year 2006, the stage of criminal case was enquired with the Directorate of Vigilance and Anti Corruption, it was informed that the order of the Government is awaited. Based on the aforesaid statement, the terminal benefits was not settled and thereafter the 2nd respondent sent reminders to the Directorate of Vigilance and Anti Corruption. Subsequently, the petitioner had retired from service voluntarily and filed a Writ



Petition in W.P.No. 14625 of 2008 seeking direction for settlement of terminal benefits due to him. Based on the clearance from Directorate of Vigilance and Anti Corruption and based on the decision of the respondent Board dated 26.09.2007, terminal benefits were granted to the petitioner. Thereafter, the petitioner has submitted a letter dated 01.12.2008 claiming interest for the belated settlement of terminal benefits. The respondent has furnished a detailed reply on 18.12.2008 explaining the factual position for the delay. Therefore, according to the respondent, there is no delay in settling the terminal benefits to the petitioner.

5. Heard both sides and perused the documents available on record.

6. I have perused the counter affidavit filed by the 2nd respondent. The respondent has sent a communication to the Directorate of Vigilance and Anti Corruption seeking report with regard to the inspection. It is seen that the respondent had reminded the Directorate of Vigilance and Anti Corruption frequently vide letters dated 05.11.2003, 07.12.2003, 01.12.2005 and D.O Letter dated 10.03.2006 to furnish the final report in order to settle the terminal benefits. Subsequently, based on the final report dated 02.09.2008 received from the Directorate of Vigilance and Anti Corruption, the eligible terminal benefits were sanctioned to the petitioner on 04.09.2008 and the said benefits were also drawn by the petitioner on 03.10.2008.

7. In view of the above statement, it is clear that there is no intentional delay on the part of the respondent-Board in settling the terminal benefits to the petitioner. The 2nd respondent, based on the report submitted by the DVAC, has settled the terminal benefits. This Court find no fault with the 2nd respondent-Board with regard to the disbursement of payment of terminal benefits to the petitioner.

8. Though in the foregoing paragraphs, this Court held that the respondent-Board was not solely responsible for the delay in disbursing the terminal benefits to the petitioner, taking serious note of the fact that there was no disciplinary proceedings initiated as against the petitioner and the petitioner was implicated only as a witness in the alleged criminal case investigated by the DVAC, which came to be concluded after a long period of 11 years, this Court is of the opinion that the petitioner is entitle for the interest amount for the belated disbursement of terminal benefits by the respondents.



9. In view of the above, the impugned order is quashed. The respondents are directed to pay the interest for the belated payment of terminal benefits to the petitioner as per Rules within a period of three (3) months from the date of receipt of a copy of this order. The writ petition is allowed to the extent above. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Municipal Administration & Water
Supply (Metro -2) Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600009.

2.The Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board,
Director, No.1, Pumping Station Road,
Chintadripet, Chennai-2.

3.The Director of Vigilance and Anti Corruption,
Chennai - 600028.

+1cc to Mr.S.Ramesh Kumar, Advocate SR. No.66769
+1cc to Government Pleader SR. No.67901

W.P.Nos. 20065 of 2009
and M.P.No. 1 of 2009

SPD (CO)
PR (11/02/2022)