

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4939 of 2021
(Heard through VC)

C.S.Ravindran

.. Petitioner

-vs-

1.The Additional Chief Secretary to Government,
Home Department,
Secretariat,
Chennai - 9.

2.The Director General of Police,
Director General of Prisons and
Correctional Services,
Whannels Road,
Egmore, Chennai - 8.

3.The Superintendent,
Borstal School,
Pudukottai.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 18.01.2021 and consequently, direct the 1st respondent to sanction interest payment of Rs.1,40,301/- (Rupees One lakh forty thousand three hundred and one only) for the delayed payment of surrender leave salary.

For Petitioner : Mr.D.Sivaraam

For Respondents : Mr.P.Karthikeyan
Additional Government Pleader

ORDER

The petitioner has come forward with this writ petition seeking a direction to the first respondent to consider his representation dated 18.01.2021 and consequential direction to the first respondent to sanction interest payment of Rs.1,40,301/- for the delayed payment of surrender leave salary.

2. Mr.P.Karthikeyan, learned Additional Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The facts of the case is that the petitioner while serving as Superintendent of Prisons, Pudukottai issued with a charge memo dated 27.05.2014. Consequently, he was placed under suspension and not permitted to retire from service. Thereafter, the disciplinary action initiated against him was dropped and consequently, he was permitted to retire from service on 31.05.2017 as per G.O.(D) No.1310 Home Department, dated 12.11.2018. As a result, D.C.R.G. and Surrender Leave Salary due to the petitioner were settled on 21.02.2019 and 02.05.2019, respectively, after a delay of more than a year. Hence, the petitioner has submitted representations to the second respondent to sanction interest for the delayed payment of D.C.R.G. and Surrender Leave Salary at the rate of 8% per annum. The first respondent in G.O.Ms.No.1488 Home (Prison-I) Department, dated 14.12.2020 has sanctioned interest payment on D.C.R.G. at the rate of 7.9% from 01.09.2017 to till the date of payment of D.C.R.G. It is also stated in the said order that there is no provision for the payment of interest on belated payment of surrender leave salary. Hence, the petitioner has submitted another representation dated 18.01.2021 to reconsider the above order considering the fact that in similar circumstances, the State Government has ordered interest payment on surrender leave salary vide G.O.Ms.No.1225 Health and Family Welfare Department dated 11.11.2003. As there was no progress in payment of interest on surrender leave salary, the present writ petition has been filed.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents, more particularly, the first respondent herein to consider the representation submitted by the petitioner dated 18.01.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 18.01.2021 and this order, to the respondents forthwith;

v) The first respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

1.The Additional Chief Secretary to Government,
Home Department,
Secretariat,
Chennai - 9.

WEB COPY

2.The Director General of Police,
Director General of Prisons and
Correctional Services,
Whannels Road,
Egmore, Chennai - 8.

3.The Superintendent,
Borstal School,
Pudukottai.

+2 cc to Mr.D.Sivaraam,Advocate Sr No.14039

+1 cc to Government Pleader, SR No.14203

W.P.No.4939 of 2021
03.03.2021

PMK(CO)
RG.26.04.2021(4P.7C)



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