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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.NOS.2384 & 2385 OF 2021
AND
CMP.NOS.15211 & 15212 OF 2021

- 1.Assistant Elementary Education Officer,
Andimadam, Udaiyarpalayam Taluk,
Ariyalur District,
Ariyalur.
- 2.The District Elementary Education Officer,
Ariyalur.
- 3.The District Treasurer,
College Road,
Chennai 600 006.
- 4.The District Collector,
Ariyalur.
- 5.The Secretary to Government
Education Department,
Fort St.George, Chennai 600 009 ...Appellants in both W.As.

Vs.

A. Adaikalasamy ...Respondent in both W.As

COMMON PRAYER :- Writ Appeals are filed under clause 15 of the Letter Patent against the order of the learned single Judge dated 19.11.2020 made in W.P.Nos.7860 of 2014 & 8358 of 2015.

Prayer in WP No.7860 of 2014 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay 12% interest per annum from the date of death of Arokiyasamy to the date of disbursing the E.L., gratuity, P.F., to the Petitioner.

Prayer in WP No.8358 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records and quash the



impugned order Na.K.No.197/A1/2014 dated 07.04.2014 issued by the 1st respondent and consequently to settle the arrears of Family Pension from the date of death of his brother late Arokyasamy to the date of death of his mother to the petitioner.

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For Appellants : Mr.K.V.Sajeev Kumar,
Government Advocate
in both WAs

For Respondent : M/s.Beula John Selvaraj
in both WAs

C O M M O N J U D G M E N T

(Judgment of the Court was made by S.VAIDYANATHAN, J.)

These appeals have been preferred against the common order in W.P.No.7860 of 2014 and W.P.No.8358 of 2015 dated 19.11.2020.

2. By consent of both the parties, these Writ Appeals are taken up for final disposal at the admission stage itself.

3. The brief facts of the case are that one deceased Arokiasamy's brother Adaikalasamy, the respondent herein, has approached this Court, claiming the monetary benefits due to his brother Arokiasamy, who was employed as a Head Master in Panchayat Union Elementary School, Udaiyar Palayam Taluk, Ariyalur District and was placed under suspension on 08.07.2008. Before any decision is taken in the departmental enquiries, he passed away on 09.09.2008, leaving behind his legal heirs, namely mother, brother and sister. It appears that Adaikalasamy has approached the Civil Court claiming the death cum retirement benefits including gratuity, and that the suit has been decreed on 27.08.2012 to settle the terminal benefits, except family pension. Pursuant to that, an amount of Rs.6,25,617/- has been settled in favour of the Writ Petitioner. However, the Family Pension was due, payable to the mother, from the date of his brother's demise i.e., from 10.09.2008 till the date of his mother's demise on 06.02.2010 and the same was not paid, which made him to file a Writ Petition in W.P.No.1074 of 2014, and the same was disposed of on 24.01.2014, directing the concerned Appellants herein to pass appropriate orders. The request was rejected by the impugned order in the Writ Petition which was challenged in W.P.No.8358 of 2015. In the meantime, the Writ Petitioner also filed a Writ Petition in W.P.No.7860 of 2014 to pay interest at 12% p.a. on the terminal benefits from the date of death of Arokyasamy, till the same is actually disbursed.

4. The learned single Judge, after hearing the parties including the Appellants came to the conclusion that the Writ



Petitioner's brother died while in service and the mother is also entitled to pension till the date of her demise. The respondents/appellants herein had mechanically rejected the request under the wrong motion, which requires interference. The Writ Petitioner Adaikalaraj is one of the legal heirs, and is entitled to all the terminal benefits due to his brother on par with other legal heirs. The mother would be entitled to pensionary benefits from the date of demise of Arokyasamy till the date of her death, and the Family Pension cannot be deprived for that period. Admittedly, the Writ Petitioner, is also one of the legal heirs as stated by him in Paragraph No.4 of the affidavit in W.P.No.7860 of 2013, that the mother also died, and that a portion of the amount has been paid by the appellants after the judgment decree passed in O.S.No.95 of 2011 dated 27.08.2012 passed by the District Munsif Court, Jayakondam.

5. Hence, we are of the view that the learned Single Judge was right in granting interest on the terminal benefits by interfering with the order dated 07.04.2014, which deprived interest in respect of the monetary benefits up to the date of death of Writ Petitioner's mother that was paid belatedly. Hence, we find no reason to interfere with the order of the learned Single Judge and the Writ Appeals are dismissed.

6. It is made clear that depending upon the legal heirs certificate to be produced by the Writ Petitioner and based on the personal law applicable to the Writ Petitioner, the amount shall be paid to the legal heirs proportionately within a period of two months from the date of receipt of a copy of this judgment. It is further made clear that interfering with the interest portion that has been granted by the learned single Judge. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dpq

To

1.Assistant Elementary Education Officer,
Andimadam, Udaiyarpalayam Taluk,
Ariyalur District,
Ariyalur.



2.District Elementary Education Officer,
Ariyalur.

3.District Treasurer,
College Road,
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4.The District Collector,
Ariyalur.

5.The Secretary to Government
Education Department,
Fort St.George, Chennai 600 009.

+1cc to the Government Pleader, S.R.No.48544

W.A.Nos.2384 & 2385 of 2021
and CMP.Nos.15211 & 15212 of 2021

GSM(CO)
RVM(26/11/2021)