

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8608 of 2020  
and WMP No.10407 of 2020

L.Joy Muthamil

... Petitioner

Vs

1. The State of Tamil Nadu,  
Rep. by its Principal Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Fort St, George,  
Chennai 600 009.
2. The Principal Secretary,  
Finance Department,  
Secretariat, Fort St, George,  
Chennai 600 009.
3. The Principal Accountant General,  
Accountant General Office (Pension),  
No.361, Anna Salai,  
Teynampet, Chennai 600 018.
4. The Pension Pay Officer,  
Pension Pay Office,  
Chennai 600 003.
5. The Director of Medical Education,  
Poonamallee High Road,  
Kilpauk, Chennai - 600 010.
6. The Director,  
Government Institute of Rehabilitation Medicine,  
K.K.Nagar, Chennai 600 083. .... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents herein to disburse, pay and settle all terminal benefits and to pay monthly regular pension to me forthwith along with appropriate interest for belated period.

For Petitioner : Mr.A.Arumugam  
For Respondents: Mr.K.K.Ramesh, Government Advocate  
for R1 & R2  
Mr.Karthikeibalan, (for R5 & R6)  
Government Advocate  
Mr.Balamurali Krishnan (for R3 & R4)

O R D E R

This writ petition has been filed, seeking a direction to the respondents herein to disburse the terminal benefits and to pay monthly regular pension to the petitioner forthwith along with appropriate interest for belated period.

2. The grievance of the petitioner is that the petitioner has retired from service on 30.06.2018 and the terminal benefits and other benefits have been paid only in January 2021. However, he is entitled to interest for the delayed period of payment and that there is erroneous calculations in the amount payable and paid to the petitioner.

3. The respondents would submit that the petitioner was charge sheeted for her various mis-conducts alleged to have been committed in 2018 and she questioned the charge memo by filing W.P.No.29970 of 2018. The learned Single Judge upheld the charge memo vide order dated 27.02.2019. As the petitioner has already been retired from service and that the Charge Memo has been upheld, there is no need for the respondents herein to pay any amount which lies and demanded by the petitioner. However, aggrieved by the order of the Single Judge, W.A.No.2905 of 2019 has been preferred by the petitioner and this Court by an order dated 24.09.2019, set aside the order of the single Judge by quashing the charge memo. Thereafter, the petitioner has been paid the entire amount within a period of four months. Even assuming for the sake of delay, there can be a delay of only four months and that the petitioner would not be entitled to any interest from 30.06.2018.

4. In reply, the petitioner quoted Rule 45-A of the Tamil Nadu Pension Rules with regard to interest on delayed payment of gratuity. The relevant paragraph is extracted below.

"45- Interest on delayed payment of Gratuity:-

(1) Interest at the rate of eight percent per annum shall be payable on the death-cum-retirement gratuity paid beyond (a) period of two months from the date of retirement of a Government servant."

5. The petitioner retired from service on 30.06.2018 and the amount has been paid only in January 2021. For the

misconduct of the petitioner, she was charge sheeted, which was questioned by way of writ petition and the same was upheld by this Court on 27.02.2019. It was reversed in Writ appeal and the charge memo was quashed on 24.09.2019.

6. Admittedly, the Rule quoted by the petitioner may not be applicable to the facts of the case. As it is the duty of the Government to settle all the terminal benefits only from the date of the order of the writ appeal and not otherwise assuming that the writ appeal has been dismissed, the petitioner would not be entitled to any interest. But in this case, the order of the Single Judge, upholding the charge sheet, has been set aside. As rightly pointed out by Mr. Karthikeibalan, learned Government Advocate, the Rule 45 -A cannot be applicable to the case of the petitioner. The Interest would be calculated only from the date of the order made in the said Writ appeal dated 24.09.2019. Even though there can be arguments that the petitioner ought to be put back to the original position, however the benefit has paid belatedly only on account of the order in the writ petition which was reversed to the benefit of the petitioner by the Division Bench.

7. In such circumstances, I am of the view that there is no delay as stated by the petitioner and the petitioner would be entitled to interest only from 24.09.2019 till the amount is paid in full to the petitioner with interest at 10 % per annum and the same shall be paid by the respondents within a period of 30 days from the date of receipt of a copy of this order.

8. It is needless to mention that if the petitioner is aggrieved that the calculation made by the respondents is not correct, the petitioner can workout his remedy before the appropriate forum and not before this Court. Due to Pandemic Covid 19, no one is deprived of his continuous cause of action and, therefore, the interest due to the petitioner would be from the date of order of the writ appeal and the petitioner cannot be made to suffer loss of interest on the ground that he need not be paid during the Corona period.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To:

1. The Principal Secretary to Government,  
Health and Family Welfare Department,  
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Chennai 600 009.
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6. The Director,  
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K.K.Nagar, Chennai 600 083.

+1cc to M/s.A.Arumugam, Advocate SR.6773  
+1cc to the Government Pleader SR.7094

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AK(CO)  
CB(08/03/2021)