

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.01.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5720 of 2014

Devi

..... Petitioner

Vs

1.The Corporation of Chennai
Rep by its Commissioner,
Rippon Building,
Chennai - 600 003.

2. The Zonal Officer,
Zone-XIII
Corporation of Chennai
Adyar,
Chennai - 600 020.

3.State of Tamil Nadu
rep.by its Secretary
Municipal Administration
and Water Supply Department,
Fort St.George, Chennai-600 009.

.....Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to pay the gratuity, Family Pension Arrears, Family Pension, G.P.F. S.G.P.F., Surrender Leave, Earn Leave, Pay Commission Arrears with 18% interest from the date of Civil death of petitioner husband to the petitioner.

For Petitioner : Mrs.N.Beulah John Selvaraj

For Respondents : M/s. Karthika Ashok for R1 and R2
Mr.J.Ramesh, AGP for R3

ORDER

This writ petition has been filed by the petitioner seeking issuance of writ of Mandamus, to direct the respondents to pay gratuity, Family Pension Arrears, G.P.F., S.G.P.F., Earned Leave, etc. with 18% interest from the date of Civil death of petitioner's husband to the petitioner.

2. According to the petitioner, her husband Raman, was employed as a Sweeper in the respondent Corporation and he was missing from 10.01.1998 onwards. In this regard, she lodged a police complaint on 30.01.1998, which was registered as Crime No.345 of 1998, on the file of the J1, Saidapet Police Station, Chennai. Thereafter, she filed a suit in O.S.No.5951 of 2006, which, vide judgment and decree dated 11.10.2007, was decreed thereby declaring that the husband of the petitioner presumed to be dead and the petitioner and her three children are the legal heirs of the said Raman. Subsequently, the petitioner filed a petition in O.P.No.848 of 2012 for succession certificate, which was also ordered on 16.04.2013. Consequently, she submitted a representation dated 10.06.2013 enclosing the relevant documents to the second respondent requesting to settle the benefits due to her husband. However, the said representation has not been considered till date. Hence, this writ petition.

3. Upon notice, a detailed counter affidavit was filed by the second respondent, wherein, it is inter alia stated that based on the succession certificate, the petitioner's representation was considered and a cheque for a sum of Rs.6,59,244/- on 20.06.2014 towards pension with arrears, DCRG etc. was issued to the petitioner. It is further stated therein that regarding the surrender of earned leave salary, there is no earned leave credited as per the service register and hence, the petitioner is not eligible for earned leave surrender benefits. It is also submitted that there is no delay on the part of the respondents in settling the dues to the petitioner, except minor terminal benefits. Stating so, this respondent prayed for appropriate orders in this writ petition.

4. Denying the averments so made in the counter affidavit filed by the second respondent, the learned counsel for the petitioner submitted that the petitioner has not been paid the entire dues and hence, the same may be directed to be paid at the earliest, along with interest.

5. Heard both sides and perused the materials placed before this Court.

6. There is no dispute as regards the civil death of the husband of the petitioner. What was disputed herein is the settlement of the dues, such as, Gratuity, Family Pension, G.P.F., S.G.P.F., Earned Leave, Pay Commission Arrears, to the petitioner. According to the respondents, they have paid all the benefits due to the husband of the petitioner, which was denied on the side of the petitioner.

7. This Court is of the view that the benefits payable to the petitioner is a valuable right of her husband, who was employed as a sweeper in the respondent Corporation and the same

is no more considered to be a bounty to be handed out by the respondents at their whims. If such payment is delayed, the petitioner would be entitled to get some interest for the same. In the decision of the Supreme Court in S.K.Dua v. State of Haryana and others [MANU/SC/7048/2008 : 2008 (3) SCC 44], it was held as follows:-

"14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines, or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant that retiral benefits are not in the nature of 'bounty' is, in our opinion, well founded and needs no authority in support thereof."

Applying the aforesaid ratio decidendi, this Court, considering the facts and circumstances of the case, is inclined to grant interest at 6%p.a. for the delayed payment of terminal benefits to the petitioner.

8. Accordingly, this writ petition stands disposed of, directing the respondent authorities to consider the representation of the petitioner, dated 10.06.2013 and settle the dues to the petitioner, if not already settled. The delayed payment is liable for interest at 6% p.a. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

Msv

To

1.The Commissioner,
Corporation of Chennai
Rippon Building,
Chennai - 600 003.

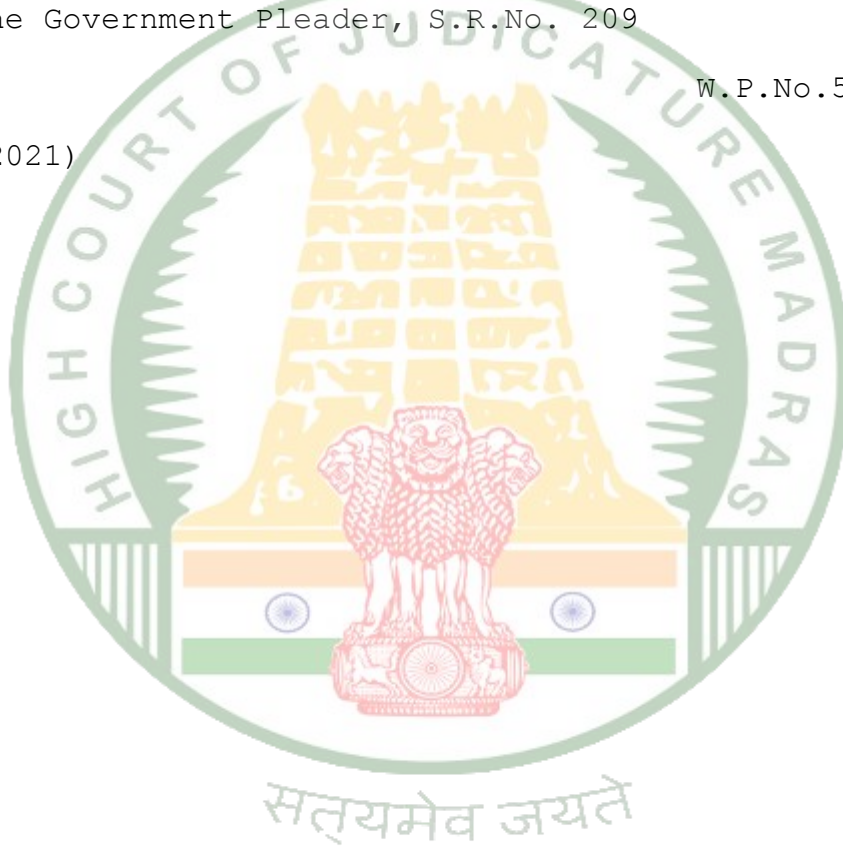
2. The Zonal Officer,
Zone-XIII
Corporation of Chennai
Adyar, Chennai - 600 020.

3.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.

+1cc to Mr.N.Beulab John Selvaraj, Advocate, S.R.No. 121
+1cc to Mr.Karthikaa Ashok, Advocate, S.R.No. 493
+1cc to the Government Pleader, S.R.No. 209

W.P.No.5720 of 2014

SR II(CO)
GN(06/01/2021)



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