



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Writ Appeal No.2362 of 2021

1. The Principal Secretary to Government,
Animal Husbandry and
Dairy Development Department,
Secretariat, Chennai 9.
2. The Commissioner for Milk Production and
Dairy Development,
Chennai 51.
3. The Deputy Registrar (Dairying),
Dairy Development Department,
Villupuram 605 401. ...Appellants/Respondents

vs.

S.Venkatachalam

...Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 15.12.2020 passed by this Court in W.P.No.7131 of 2020.

Prayer in W.P.No.7131 of 2020: Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Mandamus, directing the respondents 1 and 2 to dispose of the appeal of the petitioner dated 10/12/2019 to pay a sum of Rs.3,01,781 /- in the light of the report of the 3rd respondent within the time limit as per the orders made in Writ Petition No.9941/15 dated 03/06/2015 which was affirmed in W.A.No.2517/18 dated 20/11/2018.

For Appellants : Mr.K.Tippu Sulthan,
Government Advocate

J U D G M E N T

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

The present Appeal is filed challenging the order dated 15.12.2020 passed by the learned Single Judge in W.P.No.7131 of 2020.



2. The Writ Petitioner, who is the Respondent herein, was a Government Servant in the Dairy Department during the period from 18.07.1963 to 31.01.1981. He was permanently absorbed thereafter in the service of the Tamil Nadu Cooperative Milk Producer's Federation Limited from 1981 and after attaining the age of superannuation, he retired from service on 30.06.1995. Taking note of the fact that, the Writ Petitioner was 85 years old, the learned Single Judge directed the Appellants herein to settle the deficit amount of Rs.3,01,781/- (Rupees Three Lakhs One Thousand Seven Hundred and Eighty One only) to the Writ Petitioner, within a period of four weeks from the date of receipt of a copy of the order, towards terminal benefits.

3. Learned Government Advocate submitted that, a sum of Rs.5,72,970/- has been paid to the Writ Petitioner towards pension arrears on 12.09.2013 and a further sum of Rs.4,68,504.77 has been paid to him on 06.06.2019 towards belated payment of DCRG and provisional pension for the period from 01.07.1995 till August 2015 as per G.O.(D) No.175, Animal Husbandry, Dairying and Fisheries [MP.II] Department, dated 06.06.2019, and that, the Writ Petitioner had acknowledged the receipt of the same. He also drew the attention of this Court to G.O.Ms.No.1921, Agriculture (MP.I) Department, dated 08.11.1983. For better appreciation, relevant portion of the said Government Order is extracted below:

"6. Once a Government employee opts for absorption in Tamilnadu Cooperative Milk Producers' Federation, and his option is accepted by the Tamilnadu Cooperative Milk Producers' Federation and agreed to by Head of the Department/Government, the authority competent to sanction pension will arrange to settle the terminal benefits of the absorbed employee. The gratuity and pension will be settled in the usual manner in which these claims are settled to retired Government employees and debited to the relevant head, subject, however, to the condition that the employee opting for Tamilnadu Cooperative Milk Producers' Federation's service under this Government Order will get the pension/commuted value of pension only after the employee retires from the service of the Tamilnadu Cooperative Milk Producers' Federation."

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is represented that, the said Government Order was not brought to the attention of the learned Single Judge. That



apart, taking note of the submissions of the learned Special Government Pleader, the learned Single Judge had directed the official Respondents therein to settle the deficit amount of Rs.3,01,781/- to the Writ Petitioner. When G.O.Ms.No.1921, dated 08.11.1983 had not been brought to the attention of the learned Single Judge and when there is no averment in the Grounds of Appeal to that effect, this Court finds no reason to interfere with the order of the learned Single Judge.

6. Taking note of the fact that, the Respondent/Writ Petitioner is now 85 years old, Appellants are directed to settle the dues to the Respondent/Writ Petitioner within the time stipulated by the Court. Time granted by the learned Single Judge for settlement of the dues to the Writ Petitioner, is extended by one month from the date of receipt of a copy of this order.

In fine, the Writ Appeal is dismissed with the above direction. No costs. Consequently, connected C.M.P.No.15075 of 2021 is closed.

Sd/-
Assistant Registrar(CS II)

/True Copy//

Sub Assistant Registrar

(vm/aeb)
To:

1. The Principal Secretary to Government,
Animal Husbandry and
Dairy Development Department,
Secretariat, Chennai 9.
2. The Commissioner for Milk Production and
Dairy Development,
Chennai 51.
3. The Deputy Registrar (Dairying),
Dairy Development Department,
Villupuram 605 401.

+1 CC to The Government Pleader, Sr.No. 47860.

W.A.No.2362 of 2021

AK-II(CO)
LS(20/10/2021)