

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.02.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.3757 of 2014

S.Chandrasekaran

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Public Works Department,
Fort St.George,
Chennai - 600 009.

2.The Engineer Incharge &
Chief Engineer (General)
Tamil Nadu Electricity Board,
Public Works Department,
Chepauk,
Chennai - 600 005.

3.The Accountant General (A & D),
Tamil Nadu, Chennai Teynampet
Chennai.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pay interest at the rate of 12% p.a. from 01.01.2007 till date for the belated payment of Death - Cum - Retirement Gratuity (DCRG), pension commutation, pension arrears, subsistence allowance, special provident fund, encashment of earned leave and encashment of unearned leave within a reasonable time.

For Petitioner : Mr.S.Jayasankar
For Respondents : Mr.P.Chinna Durai
Additional Government Pleader

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Heard both sides and perused the materials brought on record.

2.The petitioner has filed this writ petition seeking a direction to the respondents to pay interest at the rate of 12% p.a. for the belated payment of Death - Cum - Retirement

Gratuity (DCRG), pension commutation, pension arrears, subsistence allowance, special provident fund, encashment of earned leave and encashment of unearned leave.

3.The case of the petitioner is that he joined the services of the first respondent on 06.05.1969 as Technical Assistant and was promoted as Junior Engineer on 08.01.1973 and was further promoted as Assistant Executive Engineer with effect from 06.12.2006 in the office of the second respondent and he attained the age of superannuation on 31.12.2006. However, he was not permitted to retire from service, as he was suspended from service, vide order dated 29.12.2006 passed by the first respondent under Rule 17(e) of the Tamil Nadu Services (Discipline and Appeal) Rules. Thereafter, the petitioner was served with charge memo on 04.06.2009 and after enquiry, the disciplinary proceedings initiated against him was dropped. Consequently, vide order dated 15.10.2012, the first respondent revoked the order of suspension and permitted the petitioner to retire from service. However, he was paid terminal benefits after seven years. Hence, he has filed this writ petition to get interest for the belated payment of terminal benefits.

4.Upon notice, the second respondent filed a detailed counter affidavit, wherein, in paragraph 17, it was stated as follows:

"17.It is therefore submitted that the eligibility for all his retirement benefits accrue only from the date of discharge from the said irregularities and in the mean while, the sixth pay commission pay revisions intervened which was also done to the petitioner immediately after the revocation of suspension after dropping all charges against him. The pension and other retirement benefits were sanctioned to him immediately after the receipt of the Government Orders and the petitioner was ambitious in claiming interest which was not due to him just for the technical reason that he was allowed to retire from due date of retirement. Nevertheless the interest at the applicable rates was paid to him for the death-cum-retirement gratuity prior to the revision of pay on the pegged ceiling of Rs.3,50,000/- and any increase in the death-cum-retirement gratuity owing to revision of pay due to the implementation of the Six Pay Commission in G.O.Ms.No.234, Finance (Pay Commission) Department dated 01.06.2009 and the arrears payable from a retrospective date can be allowed to the petitioner along with other retirees after 01.01.2006. Any special consideration to the petitioner herein would have to be extended to all those retirees on and after 01.01.2006 which would be enormous to the exchequer to the State

and would result in total chaos.”
Thus, according to this respondent, the writ petition is liable to be dismissed in limine as devoid of merits.

5.The third respondent in his counter affidavit, categorically stated that the balance amount of Rs.58,342/- in the petitioner's GPF account bearing No.21277/PW was authorised by this respondent vide letter No.GPF 36/2/FW 353/2006/1548 dated 04.01.2007 and was paid by the Treasury Officer, Trichy to the petitioner in 2/2007 itself; as per the provisions of Rule 45A (1-A)(a) of the Tamil Nadu Pension Rules, 1978, the Government had sanctioned a sum of Rs.2,35,654/- towards interest at 8% to the petitioner by G.O.(D)No.480 dated 12.11.2013; the Executive Engineer, WRO, Planning and Designs Division, Trichy, in his letter dated 16.11.2012 communicated that the petitioner had been paid subsistence allowance equivalent to the amount of monthly pension payable, during the period from 01.07.2007 till 30.06.2012 and hence, the petitioner was in receipt of the amount of full pension not reduced by any portion towards commutation and he has not been put to loss in any manner regarding the payment of commutation. With these submissions, this respondent sought to dismiss this writ petition.

6.In the light of the aforesaid averments made in the counter affidavits filed by the respondents 2 and 3, which disclose the fact that the petitioner was already received interest at 8% for the belated payment of terminal benefits, this Court has no other option except to close this writ petition recording the same.

7.Accordingly, this writ petition stands closed and the averments made in the counter affidavits filed by the respective respondents 2 and 3 are placed on record. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To
1.The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai - 600 009.

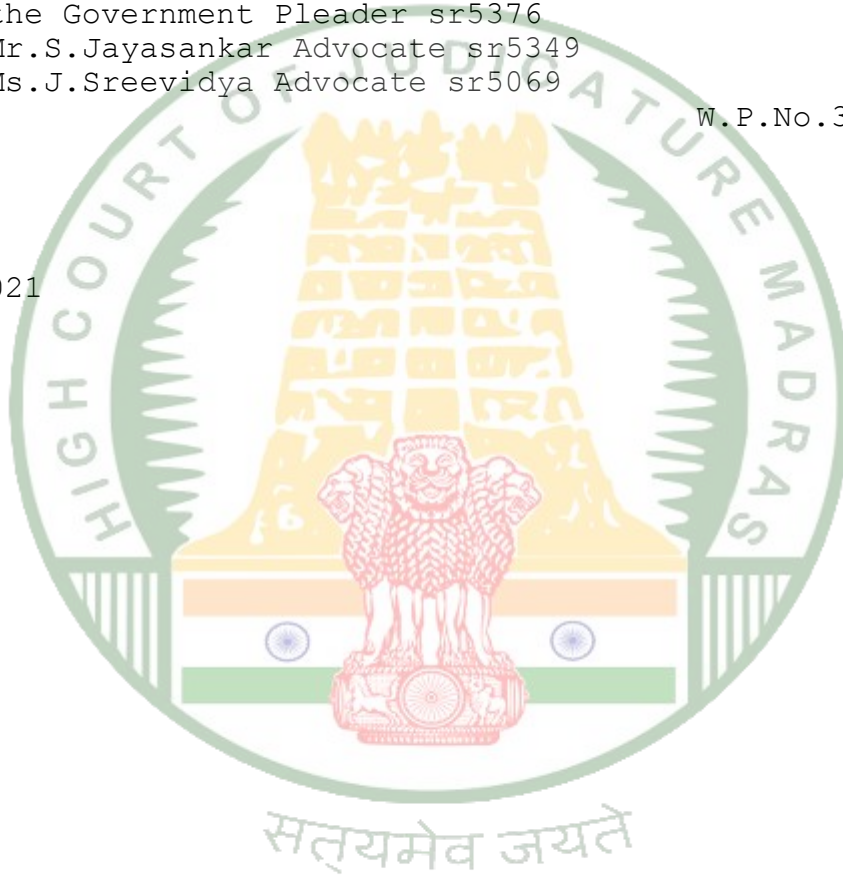
2.The Engineer Incharge &
Chief Engineer (General)
Tamil Nadu Electricity Board,
Public Works Department,
Chepauk,
Chennai - 600 005.

3.The Accountant General (A & D),
Tamil Nadu, Chennai Teynampet
Chennai.

+1 cc to the Government Pleader sr5376
+1 cc to Mr.S.Jayasankar Advocate sr5349
+1 cc to Ms.J.Sreevidya Advocate sr5069

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pvs (co)
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