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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.06.2021

PRONOUNCED ON : 05.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.26701 of 2017

K.Subramaniyan

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. by its Principal Secretary to Government,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

3.The Executive Engineer,
RWS Division,
Tamil Nadu Water Supply & Drainage Board,
Ganapathy Nagar,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings by the second respondent in Letter No.P6/60505/Pen/Ho/2010-10 dated 19.12.2016 and to quash the same and consequently direct the respondents to make the payment of interest @ 18% per annum for the delayed settlement of retirement benefits namely, Death cum Retirement Gratuity, Commuted Value of Pension and arrears of pay fixation pension from the date of retirement on 30.09.2010 till date, with all consequential and other attendant benefits within a time as fixed by this Court.



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For Petitioner : Mr.G.Sankaran

For Respondent :Ms.S.Thamizharasi
No.2

O R D E R

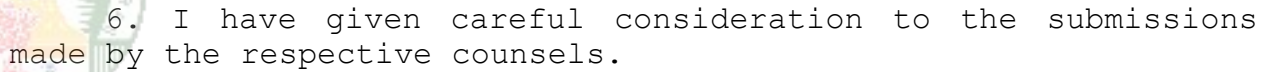
The present Writ Petition is heard through Video Conferencing on 29.06.2021.

2. Heard the learned counsel for the parties.

3. The petitioner herein, while employed as an Assistant with the Tamil Nadu Water Supply and Drainage Board, Thanjavur, retired from his services on 30.09.2010. On 27.10.2010, the third respondent had forwarded the pension proposal, determining the proposed pension at Rs.24,960/-. Based on certain Audit Objections dated 19.09.2010, the petitioner's pay was revised. Consequently, the third respondent sought for recovery of the excess payment. After obtaining the order from this Court in two Writ Petitions, the Audit Objections were dropped and the petitioner was sanctioned with the original proposed pension of Rs.24,960/- on 09.06.2016. Aggrieved against the delay in settling the pensionary benefits, the petitioner herein had sought for interest on the belated payment of retirement benefits, which came to be rejected by the second respondent on 19.12.2016, through the order impugned in the present Writ Petition.

4. The learned counsel for the petitioner submitted that the reduction in the pay of scale based on Audit Objections and the subsequent rectification of the mistake and restored the original pay scale is a mistake on the part of the respondents, owing to which, there was a delay of more than five years for disbursement of the pensionary benefits and therefore, the petitioner would be entitled for interest on such belated payments.

5. The learned Standing counsel for the respondent Board, however would submit that, the original reduction of the scale of pay was owing to Audit Objections and in view of the order passed by this Court, in the earlier Writ Petitions, the Audit Objections came to be dropped and consequently, the petitioner's scale of pay was restored and the retirement benefits were also immediately disbursed. In view of these administrative reasons and the pendency of the earlier two Writ Petitions, the delay cannot be attributed on the respondents and therefore the petitioner is not entitled for interest.



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The relevant portion of the order reads as follows:

17. In the result, the impugned order insofar as recovery of excess amount in one



11. In fine, the period between 01.10.2010 to 17.06.2015, when the retirement benefits were withheld was purely because of the decision taken by the respondents to revise the petitioner's scale of pay, pursuant to Audit Objections and the pendency of the Writ Petitions in W.P.4174 of 2011 and W.P.(MD) No.6851 of 2012, which delay cannot be attributed on the respondents. After 17.06.2015, the audit paras were dropped and the pension was sanctioned on 18.08.2015 and 03.11.2015, which is within the period of 12 weeks fixed by this Court and hence, this period also cannot be termed as "a delay" on the part of the respondents. When there is justifiable reason for belated payment of the retirement/pensionary benefits, it would not be appropriate to direct the respondents to pay interest on such belated disbursement of the monetary benefits. It is also not the case of the petitioner that the respondents had wantonly or with an ulterior motive withheld the retirement benefits of the petitioner. While that being so, the claim for interest is unjustifiable.

12. For all the foregoing reasons, the Writ Petition stands dismissed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.



3.The Executive Engineer,
RWS Division,
Tamil Nadu Water Supply & Drainage Board,
Ganapathy Nagar,
Thanjavur.

+lcc to the Government Pleader Sr.31701 and 30580
+lcc to Mr.S.Thamizharasi, Advocate Sr.31148
+lcc to Mr.G.Sankaran, Advocate Sr.31279

W.P.No.26701 of 2017

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