



WEB COPY

W.P.(MD)No.9885 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.12.2021
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.9885 of 2016

and

W.M.P. (MD)No.3027 of 2021

S.Arumugam

... Petitioner

(*) A.Renganayaki

**W/o.Late.Thiru.S.Arumugam,
No.8/6,Manoranjitham Street,
Adhisankara Bhavanam,
IOC Nagar,Vilangudi,
Madurai-625 018.**

**... Petitioner/Proposed Petitioner
vs**

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.

2. The Director of Town Panchayat,
Kuralagam,
Chennai - 600 108.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the Government in fbjk; vz;.27340/NgU.1/2014-3, ehs;;25.04.2016 communicated in endorsement Nk.F.No.2849/2014/D2, dated 10.05.2016 by the Assistant Director of Town Panchayat, Sivagangai and quash the same and consequently, direct the first respondent i.e., the Secretary to Government, Municipal Administration and Water Supply Department, Chennai to sanction compounding interest @ 12% for the arrears of pension and commuted value of pension within specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For R-1 and R-2 : Mr.D.Sachi Kumar
Additional Government Pleader.

**ORDER**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the Government, dated 25.04.2016, communicated in endorsement Nk.F.No.2849/2014/D2, dated 10.05.2016, by the Assistant Director of Town Panchayat, Sivagangai and quash the same and consequently, direct the first respondent i.e., the Secretary to Government, Municipal Administration and Water Supply Department, Chennai to sanction compounding interest @ 12% for the arrears of pension and commuted value of pension within specified time frame that may be fixed by this Court.

2. The petitioner was lastly serving as Special Grade Executive Officer, Rameswaram Township, Ramanathapuram District. The petitioner was allowed to retire on 30.06.1995 without prejudice to the charges framed against the petitioner, vide order, dated 16.10.1992. Two more Charge Memos, dated 19.10.1992 and 09.12.1992 was issued. The said Charge Memos were dropped by the Government in G.O.(2-D)No.27 Municipal Administration and Water Supply Department. Since the charges issued in the year 1992 were dropped in the year 2004 i.e., after lapse of 12 years, the petitioner could not get the terminal benefits in appropriate time. Therefore, the petitioner has come up with this petition for awarding interest for the belated payment of terminal benefits. The respondents have not filed any counter affidavit.

3. It is seen from the affidavit that the petitioner was granted terminal benefits after dropping all the Charge Memos. Moreover, the petitioner has stated that because of the prolonged disciplinary proceedings, the petitioner could not get promotion. The petitioner is claiming interest for the following payments GPF, Encashment of Leave Salary, Arrears of Pay, DCRG, Commuted value of pension. The petitioner has relied on several cases, both passed by the Honourable Supreme Court and this Court.

4. As far as the DCRG is concerned, the petitioner is entitled to interest since the said act itself providing the interest of 18%.

5. As far the GPF and Encashment of Leave Salary and Arrears of pay is concerned, the respondents have submitted that the terminal benefits were paid on 18.03.2008 itself and the petitioner has filed this writ petition in the year 2016 i.e. the petitioner has come up with this claim of interest after a lapse of 8 years and the claim of the petitioner is hit by latches. Without prejudice to the above submission the respondents submitted that the claim of interest of 18% is on the higher side.



6. As far as the commuted value of pension is concerned, the respondent relied on the Tamil Nadu Civil Pensions (Commutation) Rules, 1944 in Rule (9) Note 3. It has been stated that no Government servant against whom departmental or judicial proceedings have been instituted shall be eligible to commute a fraction of the provisional pension during the pendency of such proceedings. Also it has been stated that commutation shall become absolute on the date of application by the retiring Government servant or the day following the date of his retirement, whichever is later. Therefore the petitioner is not entitled to any interest for commutation of value of pension.

7. After hearing the arguments and after perusing the records this Court is of the considered opinion that the petitioner is entitled to the interest for DCRG alone. As far as the interest to the GPF and Encashment of Leave Salary and Arrears of pay the claim is hit by latches. The petitioner is not entitled to interest for commutation of value of pension at all as per statutory provisions. The respondents are directed to grant the interest for DCRC alone, if not paid.

8. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

**(*)Amended as per order of this
Hon'ble Court dated 11.01.2022**

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai - 600 009.

2. The Director of Town Panchayat,
Kuralagam,
Chennai - 600 108.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-38214[F] dated
10/12/2021)

+1 CC to M/s.SPL GP (SR-37928[F] dated 09/12/2021 & (SR-38131[F]
dated 10/12/2021)

W.P. (MD)No.9885 of 2016
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MGJ(10.01.2022) 4P 5C

MGJ(31.01.2022) 4P 5C