

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY  
and  
THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.A.No.1279 of 2022

R.Geetha

.. Appellant/Petitioner

Vs.

1. The Director,  
Town and Country Planning,  
No.807, Anna Salai, Chennai - 2.
2. The Assistant Director,  
Town and Country Planning,  
Thanjavur District.

.. Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 15.02.2021 in W.P.No.16504 of 2011.

Prayer in WP.No.16504 of 2011:

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the respondents herein to regularise the petitioner's service and direct the respondents to disburse all the retirement benefits which all entitled to the petitioner.

For Appellant : Ms.Ezhil

For Respondents : Ms.P.Raja Rajeswari,  
Govt. Advocate

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 15.02.2021 recorded on W.P.No.16504 of 2011. This appeal is by the writ petitioner.

2. Learned advocate for the appellant/ writ petitioner has attempted to submit that, the retirement benefits were not

calculated and paid to the appellant as per her entitlement and therefore it was agitated before learned single Judge and the same is not properly appreciated by learned single Judge. It is submitted that therefore this appeal be entertained.

3. Learned Government Advocate for the respondents has contested this appeal and it is submitted that learned single Judge has recorded reasons, why, what was asked for by the writ petitioner was unsustainable. It is submitted that this appeal be dismissed.

4. Having heard the learned advocates for the respective parties and having considered the material on record, we find that this appeal need not be entertained at all for more than one reason. Para 4 of the order of learned single Judge reads as follows:

"4. When the case is taken up for hearing, there is no representation for the petitioner. However, in view of the pendency of the writ petition for the past nearly a decade, this Court is inclined to take up the matter and decide the same on merits, on the basis of the available records, of course after hearing the learned Special Government Pleader."

5. Having not presented the case before learned single Judge and to agitate in writ appeal that there is error would not lie, at the hands of the appellant. Additionally, we find that the State Authorities had, by counter submitted before the writ Court that, as per their calculation, an amount of Rs.4,08,595/- was payable to the writ petitioner on her retirement which was also attempted to be paid, which she was not ready to accept, for which oral as well as written intimations were also given to her and in spite of that, she did not receive the terminal dues. In this background, learned single Judge passed the order in the following terms:

"11. In view of the above discussion, this Court is inclined to dispose of this writ petition with the following order:

That the respondents are directed to disburse the D.C.R.G., and other benefits payable to the petitioner, if the same has not been received by the petitioner, as the same was offered to her in the year 2007-08 itself. This apart, the petitioner is not entitled for any other relief as claimed by her in this writ petition. With the above directions, this writ petition is disposed of. No costs."

6. We find that the adamantness on the part of the writ petitioner cannot be a factor against her, and therefore the discretion exercised in her favour, though questioned by the writ petitioner, need not be interfered with.

7. For the above reasons, this writ appeal is dismissed. No costs.

Sd/-  
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mmi/67

To

1. The Director,  
Town and Country Planning,  
No.807, Anna Salai, Chennai - 2.
2. The Assistant Director,  
Town and Country Planning,  
Thanjavur District.

+1cc to the Government Pleader, S.R.No.41420

W.A.No.1279 of 2022

GJ(CO)  
UMA(12/07/2022)