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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.7152 of 2012

M.Narayanan

... Petitioner

Vs.

The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600035.

... Respondent

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent to pay interest @ 12% per annum for the delayed period of payment of DCRG of Rs.1,98,578/- from date of retirement to the date of payment of DCRG i.e. from 01.04.2002 to 08.02.2011.

For Petitioner : Mr.T.Dhanyakumar

For Respondent : Mr.R.Bharath Kumar

ORDER

The petitioner while serving as the Divisional Accountant in the respondent/Housing Board, was subjected to disciplinary action through a charge memo dated 09.02.2002. Incidentally, the petitioner herein, in his reply dated 27.03.2002 to the charge memo, had stated that he is admitting to the charges and having no objection if the loss of Rs.19,652/- was adjusted from his DCRG benefits. By a letter dated 28.03.2002, the respondent herein, had permitted the petitioner to retire from service of the Tamil Nadu Housing Board with effect from 31.03.2002, without prejudice to the charges under 37(b) of TNHB Service Regulations. In the same letter, it was stated that the DCRG benefits payable to the petitioner would be released after withholding the sum of Rs.19,652/-, which was the alleged loss to the Board under the departmental action. Ultimately, the departmental action resulted in imposition of punishment of



stoppage of increment for a period of two years without cumulative effect through an order dated 23.09.2010.

2. The petitioner herein, now seeks for payment of interest on the belated settlement of DCRG benefits. The charge levelled against the petitioner pertains to certain alleged dereliction of duty on the part of the petitioner while he was serving as an Assistant between the period from 1986 to 1994 which was about 16 years before the charges. The charge memo itself was issued on 09.02.2002, which was at the verge of his retirement. Even though the respondent herein, had passed an order on 28.03.2002, permitting the petitioner to retire from service with effect from 31.03.2002 with a further observation that apart from a sum of Rs.19,652/-, DCRG benefits should be released to the petitioner without prejudice to the charges under 37(b), they had chosen to retain the DCRG benefits without any justifiable cause. Ultimately, the DCRG benefits came to be disbursed to the petitioner only on 08.02.2011. As such, I do not find any justification on the part of the respondent of having withheld the entire DCRG benefits.

3. Section 45-A of the Tamil Nadu Pension Rules, provides for payment of interest on belated disbursement of DCRG @ 12% per annum, which is to be compounded annually.

4. The learned counsel appearing for the respondent submitted that the proviso to Section 45-A states that the DCRG is payable after three months from the date on which the disciplinary proceedings concludes and therefore, the petitioner will not be entitled for disbursement of DCRG.

5. I am not in agreement with such a submission. This is not a case where the entire DCRG benefits were withheld owing to the disciplinary proceedings. As evidenced, in the respondent's letter dated 28.03.2002, they had reserved the right to proceed against the petitioner for the charges under 37(b) and have also permitted the petitioner to retire after withholding a sum of Rs.19,652/- alone. When the order of the respondent itself indicated that the petitioner would be entitled for the DCRG benefits subject to the withholding of the sum of Rs.19,652/-, the reliance placed to the proviso of Section 45-A, cannot be sustained.

6. It is not in dispute that the petitioner's DCRG benefits were disbursed on 08.02.2011 amounting to Rs.1,98,578/-. As a result, there shall be a direction to the respondent to pay interest compounded annually @ 12% on the sum of Rs.1,98,578/-



from the 01.04.2002 till 08.02.2011. The respondent shall pass appropriate orders in this regard and disburse the said interest amount within a period of four weeks from the date of receipt of a copy of this order.

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In the light of the above direction, this Writ Petition is disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600035.

+1cc to M/s.R.Bharathkumar, Advocate Sr.13209
+1cc to M/s.T.Dhanyakumar, Advocate Sr.13668

W.P.No.7152 of 2012

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