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W.P.Nos.27944 of 2016 & 6881 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.27944 of 2016 & 6881 of 2017

P.Veerapandiyan

...Petitioner in both W.Ps

Vs.

M/s.Madras Fertilizers Limited,
Rep.by its Chairman and
Managing Director,
Manali, Chennai – 600 068.

..Respondent in both W.Ps

Prayer in W.P.No.27944 of 2016 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to disburse retirement benefits of the Petitioner together with interest at the rate of 12% per annum from the date of retirement till the date of disbursement within period of four weeks or any other time limit as may be prescribed by this Honble Court.

Prayer in W.P.No.6881 of 2016 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the order dated 21.12.2016 passed by the respondent herein and quash the same with all consequential benefits.



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For Petitioner : Mr.K.S.Viswanathan
[in both W.Ps]
For Respondents : Mrs.Ritachandrasekar
For M/s.Aiyar and Dolia
[in both W.Ps]

COMMON ORDER

The relief sought for in W.P.No.27944 of 2016 is for a writ of Mandamus, to disburse retirement benefits of the Petitioner together with interest at the rate of 12% per annum from the date of retirement till the date of disbursement within period of four weeks or any other time limit as may be prescribed by this Honble Court.

1.1. In respect of W.P.No.6881 of 2017 is concerned, the relief sought for is to call for the records pertaining to the order dated 21.12.2016 passed by the respondent herein and quash the same with all consequential benefits.

2. The petitioner states that he was an employee of the respondent company, which is owned by the Government and retired from service on 30.11.2014 on attaining the age of superannuation. The petitioner was holding the post of Deputy General Manager (Marketing and Distribution)



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and allowed to retire peacefully. While he was in service, a charge memo was issued to him in proceedings dated 27.11.2014. The petitioner submitted his explanation and thereafter, the authorities competent passed an order in proceedings dated 29.10.2015, exonerating the petitioner from the charges. The order states that based on the findings of the enquiry officer, the petitioner was exonerated from all the charges. After dropping all the charges against the writ petitioner, the order impugned dated 21.12.2016 has been passed, imposing recovery.

3. The learned counsel for the petitioner contended that the employer-employee relationship ceased to exist as it is non-pensionable services. The petitioner was exonerated from all the charges in proceedings dated 29.10.2015 and thereafter, the employer has no power to issue an order of recovery and therefore, the impugned order is untenable.

4. The learned counsel appearing on behalf of the respondent made a submission that the petitioner has approached this Court without approaching the Appellate Authorities. When the jurisdiction of the authorities has been questioned by the petitioner, this Court is of an opinion



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that exhausting the Appellate Remedy may not be strictly required as in the present case, the employer-employee relationship ceased to exist and therefore, this Court is inclined to consider the grounds raised in the present writ petition.

5. It is brought to the notice of this Court that the terminal benefits has already been settled in favour of the writ petitioner. However, the petitioner is entitled for interest, for the belated settlement of the terminal benefits.

6. Thus, the respondents are directed to calculate the period, for which, the petitioner is entitled for interest as per the Rules and accordingly, settle the interest as applicable within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. As far as the impugned order is concerned, it has been issued without jurisdiction and authority and consequently, the order impugned passed by the respondent in order dated 21.12.2016 is quashed.



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8. Accordingly, both the writ petitions stand allowed. No costs.

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Index : Yes

Speaking order: Yes

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To

The Chairman and
Managing Director,
M/s.Madras Fertilizers Limited,
Manali, Chennai – 600 068.



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S.M.SUBRAMANIAM, J.

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