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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.24985 OF 2021

M.Sekar

.. Petitioner

vs

1. Registrar General
Madras High Court
Chennai 600 104.
2. The Accountant General Officer
Accounts and Entitlements
Mount Road, Teynampet
Chennai 600 018.
3. State of Tamil Nadu
Represented by its Additional
Chief Secretary to Government
Home (Courts) Department
Secretariat, Tamil Nadu
Chennai 600 009.
4. State of Tamil Nadu
Represented through its Additional
Chief Secretary Finance Department
Court, Secretariat, Tamil Nadu
Chennai 600 009.

... Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying for Writ of Mandamus to grant pension and other retirement benefits of the petitioner herein with interest at the rate of 18 percentage per annum in pursuance of the recommendation of the 1st respondent to the 3rd respondent by his letter dated 12.05.2021 in ROC No.22213/ 2019-B -1 who was placed similar to the order of the Honourable Supreme court of India in Civil Appeal Nos.8216 to 8222 of 2018 dated 25.3.2019 within the time frame fixed by this court.



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For Petitioner : R.T.Shyamala

For Respondents : Mr.B.Vijay
Standing Counsel
For R1

Mr.V.Vijay Shankar For R2

Mrs.R.Anitha
Special Government Pleader
For R3 and R4

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed seeking direction for grant of pension and other retirement benefits and interest @ 18% p.a. pursuant to the recommendation of the 1st respondent dated 12.05.2021.

2. It is stated that, now the respondents have issued Pension Payment Order ("PPO" for brevity), according to which, petitioner has been made entitled with pension benefit. In view of the above, so far as the direction for the grant of pension is concerned, it has been rendered infructuous.

3. Learned counsel for the petitioner however prays for interest on the belated payment of pension on the ground that the petitioner retired in the year 2018, while the pension has been sanctioned in the year 2022 and accordingly, for the intervening period, the petitioner is entitled for interest.

4. The prayer with regard to the interest has been contested by the respondents. Learned counsel appearing for the High Court submits that the petitioner was not entitled to pensionary benefit. In fact, he was not appointed in service by regular mode and it is only pursuant to the judgment of the Division Bench that his services were regularised by way of one time arrangement, otherwise, the petitioner was not even entitled to regularisation of service. The issue of pension thereupon came up for consideration before the Apex Court in the appeals preferred by similarly placed persons like the petitioner. The Apex Court, taking note of entire stock of facts and drawing



powers under Article 142 of Constitution of India, carving out an exception, allowed the pensionary benefit to the appellants therein. Even though the appellants before the Supreme Court were not entitled for pensionary benefits, as a one time exception, the pension was allowed, however, the petitioner herein was not a party to the said proceedings.

5. Based on the judgment of the Supreme Court, certain representation was given by the petitioner for extension of the benefit of pension. Though strictly speaking the order passed by the Apex Court drawing powers under Article 142 of the Constitution of India was not binding, but the Government taking liberal approach in the matter and giving relaxation to the general rule regarding eligibility of the pension, decided to award pension to the petitioner and other similarly placed persons. In view of the above, there was no delay in grant of pension because, the moment the decision was made, the PPO was issued, extending pensionary benefit to the petitioner. Therefore, the petitioner is not entitled to interest as there is no delay in granting the pensionary benefit to the petitioner.

6. We have considered the rival submissions and find that while the petitioner has been given the benefit of pension by the respondents pursuant to the decision taken by the Government after the judgment of the Apex Court and PPO also has been issued, the issue with regard to payment of interest does not arise.

7. Learned counsel for the respondents, giving the brief history of the litigation, not only regarding the grant of pensionary benefits, but also the initial litigation regarding regularisation of service, submits that though the persons similarly placed were not found entitled to get pensionary benefit, it was the intention of the Court in the judgment therein to grant relaxation of the rule as an exception and as a one time arrangement, pension was granted to the appellants therein, where the petitioner was not even a party.

8. In that case, the Government relaxing the norms and rules for entitlement of pension, took a decision to extend the benefit to the petitioner also and the moment the decision was taken, PPO was issued without any delay. In such circumstances, it cannot be stated that there was a delay on the part of the respondents to extend the benefit of pension, rather the case sets out different facts, where no delay can be attributed to the Government for extending the benefit of pension and accordingly, finding no ground to allow interest on the payment of pension, we decline the prayer as sought for by the



petitioner in this regard. However, since pension has been granted, we dispose of this writ petition. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KST/MKN

To:

1. The Registrar General
Madras High Court
Chennai 600 104.
2. The Accountant General Officer
Accounts and Entitlements
Mount Road, Teynampet
Chennai 600 018.
3. The Additional Chief Secretary to Government
Home (Courts) Department
Secretariat, Tamil Nadu
Chennai 600 009.
4. The Additional Chief Secretary,
Finance Department Court,
Secretariat, Tamil Nadu.
Chennai 600 009.

+1cc to M/s.V.Vijay Shankar, Advocate, S.R.No.23292

+2ccs to M/s.R.T.Shyamala, Advocate, S.R.No.22967

+1cc to the Government Pleader, S.R.No.23249

W.P.No.24985 of 2021

KV(CO)
RLP(08/04/2022)