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W.P.No.24687 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24687 of 2019

K.Muthukrishnan

...Petitioner

Vs.

General Manager,
Indian Drugs and Pharmaceuticals Limited,
(A Government of India Undertaking)
IDPL Complex,
Nandambakkam, Chennai – 600 089.

..Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pay retirement benefits due as per the scheme dated 26.9.2002 namely General Provident Fund, Leave Salary and benefits, pensionary benefits like pension arrears and commutation of pension with 12% compound interest from the date of 14.8.2003 till date of payment to the petitioner pursuant to the representation of the petitioner dated 21.01.2019 and legal notice dated 01.03.2019 issued to the respondent.

For Petitioner : Mr.S.Sadasharam

For Respondent : Mr.S.Haja Mohideen Gisthi



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ORDER

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The relief sought for in the present writ petition is for a direction to direct the respondent to pay retirement benefits due as per the scheme dated 26.9.2002 namely General Provident Fund, Leave Salary and benefits, pensionary benefits like pension arrears and commutation of pension with 12% compound interest from the date of retirement on 14.8.2003 till date of payment to the petitioner pursuant to the representation of the petitioner dated 21.01.2019 and legal notice dated 01.03.2019 issued to the respondent.

2. The petitioner was employed in the respondent Establishment from 09.07.1977. He was initially appointed as Mazdoor and promoted and thereafter, retired from service voluntarily on 14.08.2003.

3. The grievances of the writ petitioner are that the retirement benefits due to him are not settled without any valid reasons and therefore, the petitioner sent several representations to the respondent, which were not considered. Thus, he is constrained to move the present writ petition.

4. The learned counsel appearing on behalf of the respondent raised an



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objection by stating that the petitioner has two wives and there is a family dispute. Further, the petitioner is not maintaining the family and therefore, the pensionary benefits are to be withheld. On receipt of the legal notice from the counsel, the respondent has not taken any action to disburse the pensionary benefits due to the writ petitioner. A Criminal Case was also registered against the writ petitioner. For all these reasons, the respondent has waited for the result and not settled the dues to the writ petitioner.

5. This Court is of the considered opinion that the family dispute between the petitioner and his wife is no way connected with the terminal benefits to be settled in favour of an employee. The petitioner is allowed to retire from service peacefully. When an employee was allowed to retire from service, then the employer is bound to settle the terminal and pensionary benefits due to him. Regarding non-maintenance of family, the wife of the petitioner has to approach the competent Court for appropriate relief of maintenance or for initiation of further actions. However, the employer cannot interfere in any such personal disputes relating to Matrimonial Law and the respondent is bound to settle the terminal benefits due to the petitioner.



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6. In this regard, the counter affidavit filed by the respondent also states that they are ready and willing to settle the terminal benefits within a period of three months and the relevant paragraphs 8 and 9 are extracted hereunder:

“8. I submit further that Having no business activity and thus no resources to support even day to day maintenance, the same is met out of borrowed funds from parent company IDPL, which in turn reeling under heavy losses and depleted resources, is also unable to continue to accede our request for funds hereafter. Despite resource constraints the delay was purely on reasons arising out of the petitioner's side and the management is keen to settle his dues soon after the Assets realized through the Government of Tamilnadu and in any case within a period of 3 months that is, before 28 February 2023.

Therefore, the petitioner humbly prays before this Hon'ble Court may be pleased to pass order for payment of due benefits upon verification and audit within a period of 3 months without any interest and such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.”



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7. In view of the fact that the respondent has agreed to settle all the terminal and pensionary benefits due to the writ petitioner, the respondent is directed to settle all the terminal and pensionary benefits within a period of three months from the date of receipt of a copy of this order.

8. The learned counsel for the respondent brought to the notice of this Court that the respondent's Company had already been closed and they are in financial difficulties. Considering the said fact, this Court is not inclined to grant the interest.

9. Accordingly, the writ petition stands disposed of. No costs.

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Index : Yes
Speaking order : Yes
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To

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S.M.SUBRAMANIAM, J.

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