



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.2059 of 2022

R.Muthukumarasamy

... Petitioner

versus

1. The Secretary,
Hindu Religious and Charitable
Endowment Department,
119, Uthamar Gandhi Salai,
Thousand Lights West,
Nungambakkam,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Thiruvananthapuram Road,
Palayankottai,
Tirunelveli District.
3. The Executive Officer,
Sankara Rameswarar Temple,
18, South Sambantha Moorthy Street,
Tuticorin (City).

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent to issue a departmental arrear pension and gratuity by considering the petitioner's representation dated 30.12.2021.

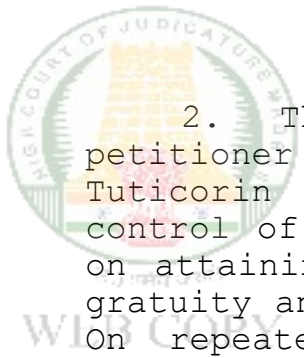
For Petitioner: Mr.V.Balasubramanian

For R1 and R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

For R3 : Mr.Muthugeethaiyan

ORDER

This writ petition is filed for a Mandamus, directing the respondents to pay arrears of pension and gratuity to the petitioner, by considering his representation dated 30.12.2021.



2. The learned counsel for the petitioner submits that this petitioner served as Othuvar (Poojari) at Sankara Rameswarar Temple, Tuticorin from the year 1994 and the said Temple is under the control of HR&CE Department. He retired from service on 31.05.2017 on attaining the age of superannuation. Though he is entitled for gratuity and other terminal benefits, the same was not paid to him. On repeated representations, a part amount was paid only on 17.09.2021 and the remaining amount is yet to be paid.

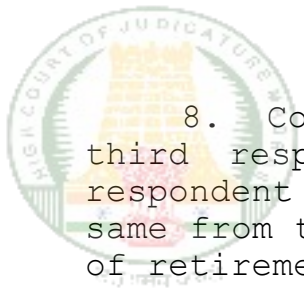
3. Mr.Muthugeethaiyan, learned counsel appearing for the third respondent and Mr.G.V.Vairam Santhosh, learned Additional Government Pleader appearing for the respondents 1 and 2 submit that all the terminal benefits were paid to the petitioner on 17.09.2021 and he is also receiving consolidated pension. It is further submitted that it is only 10 months of salary arrears and gratuity amount to be paid to the petitioner and it is under process and it would be settled to the petitioner within a period of two weeks.

4. It is very unfortunate that the petitioner, who served as Poojari in the 3rd respondent Temple from the year 1994 and retired from service in the year 2017, was not paid the entire retirement benefits for the past three years. A part amount alone was paid to the petitioner on 17.09.2021 and still, some amount is yet to be paid to the petitioner. On filing this writ petition, the respondents have come forward to settle the amount within a period of two weeks.

5. It is needless to say that some efforts ought to have been taken by the respondents to disburse the retirement benefits to the petitioner at the earliest. In ***S.K.Dua vs. State of Haryana*** reported in **2008 (3) SCC 44**, the Hon'ble Apex Court held that employee is entitled for interest for the belated payment of retirement/terminal benefits. Following the Judgment of the Hon'ble Apex Court, this Court also passed various orders in several other writ petitions, including, the writ petitions filed by the employees of the Transport Corporation to pay interest at the rate of 6% p.a. for the belated payment of retirement/terminal benefits. The Payment of Gratuity Act, 1972, also contemplates interest for the belated payment of gratuity.

6. In view of the above, this Court directs the respondents to pay arrears amount due to the petitioner along with interest at 6% p.a. by calculating it from the date of his retirement, i.e. from 31.05.2017 till the date of actual disbursement, within a period of two weeks from the date of receipt of a copy of this order together.

7. The learned counsel for the third respondent submits that the Temple is a listed temple under Section 46(3) of HR&CE Act, 1959 and not having sufficient income. Therefore, the imposition of interest would affect the interest of the temple.



8. Considering the request made by the learned counsel for the third respondent, a further direction is issued to the first respondent to pay interest amount to the petitioner and recover the same from the concerned officers, who delayed the process of payment of retirement benefits to the petitioner.

9. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

OGY

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
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Endowment Department,
119, Uthamar Gandhi Salai,
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+1 CC to M/s.V.BALASUBRAMANIAN, Advocate (SR-3624[F] dated 02/02/2022)

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-3880[F] dated 03/02/2022)

+1 CC to M/s.SPL.GP (SR-3968[F] dated 03/02/2022)

ORDER MADE IN
W.P(MD)No.2059 of 2022
02.02.2022