



W.A.(MD)No.755 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.755 of 2022
and
C.M.P.(MD)No.6351 of 2022

The Secretary,
represented by Mr.Subramanian,
S.M.R.V.Higher Secondary School,
Vadasery, Nagercoil.

... Appellant

Vs.

1.P.Thuraipandian

2.The District Educational Officer,
O/o.District Education Officer,
P.W.D. Nagercoil, Kanyakumari District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court in W.P.(MD)No.12344 of 2021, dated 06.01.2022.

For Appellant	:Mr.B.P.Rathina Prakash
For R1	:Mr.T.Lajapathi Roy
For R2	:Mr.A.Kannan
	Additional Government Pleader



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JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge of this Court in W.P.(MD)No.12344 of 2021, filed by the first respondent herein.

2.Heard Mr.B.P.Rathina Prakash, learned Counsel for the petitioner, Mr.T.Lajapathi Roy, learned Counsel, who takes notice on behalf of the first respondent and Mr.A.Kannan, learned Additional Government Pleader, who takes notice on behalf of the second respondent. By consent of all the parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

3.There is no dispute that the Writ Petitioner opted for voluntary retirement from service and he was permitted to retire voluntarily on 31.05.2010. Since the Writ Petitioner was not paid arrears of salary and the pensionary benefits, there was a direction by this Court in W.P.(MD)No.13250 of 2010 directing the respondents in the Writ Petition to make payment of all the arrears of salary and pensionary benefits to the Writ Petitioner with interest from the date on which the Writ Petitioner is entitled to receive the same.

4.The Writ Petitioner was unable to get the arrears of salary and



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the pensionary benefits, as the appellant did not send the proposal to the educational authorities in time. The learned Single Judge while granting relief to the Writ Petitioner in W.P.(MD)No.12344 of 2021, directed the first respondent in the Writ Petition/the second respondent herein, to pay interest for the belated payment of retirement benefits @ 6% p.a., till the date of actual disbursement within a period of six months from the date of receipt of a copy of that order. Taking note of the submissions made by the learned Additional Government Pleader that there was no delay on the part of the first respondent in the Writ Petition and it was only because of the second respondent/appellant herein, who sent the proposal belatedly, the delay had occurred, the learned Single Judge of this Court directed the first respondent to recover the amount paid towards belated payment from the second respondent/appellant herein. Aggrieved by the same, the above Writ Appeal is preferred by the second respondent in the Writ Petition.

5.The question whether the Writ Petitioner is entitled to receive pensionary benefits is not an issue. The facts that the Writ Petitioner, who retired voluntarily in 2010 and there was a huge delay in disbursement of pensionary benefits to the Writ Petitioner are not in dispute. The question whether the appellant is responsible for the delay was answered against the appellant by the learned Single Judge on the



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basis that proposals were sent belatedly by the appellant. The appellant challenges the order of the learned Single Judge contending that there were intervening Court proceedings and the delay was due to the pendency of Writ Petitions filed by the Writ Petitioner earlier.

6.This Court is unable to find any delay on the part of the second respondent. It is seen that the Writ Petitioner had approached the Court for regularisation of certain period and for getting pensionary benefits. Pendency of Writ Petitions earlier filed by the Writ Petitioner cannot be cited as a reason to disown the liability of the appellant to pay interest. When the the learned Counsel for the appellant is unable to demonstrate before this Court that the delay was not due to commission or omission by appellant and the appellant has admitted that the delay is due to administrative reasons cited by the appellant, this Court is unable to interfere with the order of the learned Single Judge giving direction to the second respondent to recover the amount paid towards interest for the belated payment from the appellant. Hence, this Writ Appeal is dismissed as devoid of any merit. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.R., J.] [S.S.Y., J.]
25.07.2022

Index : Yes / No
cmr



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To

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The District Educational Officer,
O/o.District Education Officer,
P.W.D. Nagercoil, Kanyakumari District.



WEB COPY



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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