



W.P.(MD)No.2248 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.2248 of 2015

A.Lingappan

... Petitioner

Vs

1.G.Venkatasamy Naidu College,
Represented by its Secretary,
Kovilpatti – 628 502,
Thoothukudi District.

2.The Principal,
G.Venkatasamy Naidu College,
Kovilpatti – 628 502,
Thoothukudi District.

3.The Regional Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli – 627 001.

4.The Assistant Treasury Officer,
Kovilpatti Sub Treasury,
Kovilpatti – 628 501,
Thoothukudi District.

5.The Accountant General,
Office of the Accountant General,
Teynampet,
Chennai – 600 018.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first and second respondents to issue “No Due Certificate” to the third respondent and consequently direct the third respondent herein to disburse the terminal, pension and other benefits of the petitioner with 18% interest per annum.

For Petitioner : Mr.M.Saravanan

For R-1 and R-2 : Mr.A.Sivaji

For R-3 and R-4 : Mr.J.John Rajadurai,
Government Advocate.

For R-5 : Mr.P.Gunasekaran.

ORDER

This Writ Petition has been filed for Writ of Mandamus, directing the first and second respondents to issue “No Due Certificate” to the third respondent and consequently direct the third respondent herein to disburse the terminal, pension and other benefits of the petitioner with 18% interest per annum.

2. The brief facts as stated in the affidavit are that the petitioner joined the College of the first respondent as Assistant Professor in Commerce Department on 03.09.1982 and was redesignated as Senior Lecturer on 04.09.1990, then was granted promotion periodically and retired from service on 30.04.2013. The



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contention of the petitioner is that though he had retired on 30.04.2013, he received a communication from the 1st respondent college to submit the petitioner's pension proposals through Form V with necessary documents on 10.07.2013. The first respondent has not taken any effective steps to get pension, terminal benefits and other benefits. Finally, on 18.10.2013, the first respondent has sent the pension proposals to the third respondent, who in turn, forwarded to the fifth respondent on 17.12.2013. After perusing the documents relating to the petitioner's service, the fifth respondent approved the pension proposals through his letter Ref.PPO.No.P22/12210558/2PPO No.R2210558/EDA dated 03.04.2014. The third respondent vide letter dated 05.05.2014 directed the first respondent to send "No Due Certificate" in order to grant pension, terminal benefits and other benefits to the petitioner. On 13.01.2015, the petitioner submitted a representation to the first respondent to issue a "No Due Certificate". But, the first respondent vide communication dated 27.01.2015 alleged that the petitioner did not produce the stock register when he was in charge of Fine Arts Club from 06.10.2012 to 30.04.2013. But the petitioner states that on 07.05.2014, the petitioner has sent a letter to the first respondent for issuance of necessary certificates which includes "No Due Certificate". So that, it can be submitted to the authorities for releasing the pensionary benefits. Therefore, the petitioner sent a letter dated 12.10.2014 to the first respondent that he was willing to pay the cost



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of the Fine Arts materials which was not handed over and the cost of materials valued about Rs.47,872/-.

3. As per the direction of the third respondent, in order to hand over the articles of the Fine Arts Club on 29.09.2013, the petitioner entered the College campus on 09.10.2013. The petitioner searched for the items, but to the shock, he found several items including stock register and files were missing. On 09.10.2013, the petitioner was forced to hand over only few items that was available. Thereafter, from 10.10.2013 onwards, the petitioner was not permitted by the first and second respondents to enter into the College campus. Therefore, through reply to the third respondent, the petitioner suggested to invoke Tamil Nadu Pension Rules 71(2) (c), if proper assessment of the dues to the College could not be made. Even after the lapse of 20 months, from the date of retirement, the first respondent has not issued “No Due Certificate”. The petitioner was involved in several agitations organized by Teachers Organization MUTA. In order to wreck vengeance, the first and second respondents have not issued “No Due Certificate”. The petitioner further he is depending upon the pensionary benefits to run his retired life and hence seeks interest of 18% per annum.



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4. When this Writ Petition was taken up on 17.12.2020, this Court had passed an order observing that during the pendency of the Writ Petition, the grievance of the writ petitioner was addressed and disposed of the Writ Petition as infructuous. Aggrieved over the same, the writ petitioner has preferred Writ Appeal in W.A.(MD).No.186 of 2021 and the Hon'ble Division Bench vide order dated 15.06.2021 allowed the Writ Appeal and liberty is granted to the Management to file counter in the Writ Petition and the Writ Petition remitted back and to be reheard by the Learned Single Judge. Hence, this Writ Petition is listed for hearing today.

5. The respondents have filed a counter stating that the petitioner was permitted to retire from service on 30.04.2013 as per the rules and regulations. The pension proposals of the petitioner were submitted to the fifth respondent through the third respondent by the first respondent. After scrutiny, it was found that Form V was missing and the petitioner was requested so many times to submit Form V. At the time of retirement, the petitioner has not surrendered the stocks of Fine Arts Club and also Accountant Register till date. This fact was also communicated to the petitioner to settle either by handing over the things or by way of compensation. However, there was no response from the petitioner's side.

As admitted by the petitioner, the first respondent has sent the pension proposals

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on 18.10.2013, so there is no delay on the part of the first respondent. Without clearing the dues, the petitioner has only sent letters to the respondents to issue “No Due Certificate”. Even the petitioner has admitted that he has not handed over the materials and the registers which were under his control, there is no delay on the part of the respondents in issuing “No Due Certificate”. It is because of the delay on the part of the petitioner in handing over the materials and the registers, there was delay. Even if the delay is caused by the petitioner, it is the third respondent who is responsible to pay the interest. Therefore, the learned counsel for the first and second respondents prayed to dismiss this Writ Petition.

6. The third respondent has also filed a counter denying the delay on the part of the official respondents and prayed to dismiss this Writ Petition.

7. Heard Mr.M.Saravanan, learned counsel for the petitioner and Mr.A.Sivaji, learned counsel for the first and second respondents and Mr.J.John Rajadurai, learned Government Advocate, for the third and fourth respondents and Mr.P.Gunasekaran, learned counsel for the fifth respondent.

8. It is admitted by the petitioner and the respondents that the petitioner retired from service on 30.04.2013 and pensionary proposal was submitted on

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17.12.2013 and after scrutinizing the records, the fifth respondent, the Accountant General has approved the pension proposals on 03.04.2014. Until, 03.04.2014, there is no delay at all. Therefore, this Court is of the considered opinion that there is no delay by the respondents 3 to 5.

9. After receiving pensionary proposals, the third respondent has sent a letter to the first respondent vide letter dated 05.05.2014 to issue No Due Certificate. From 05.05.2014, dispute arose between the petitioner and the 1st and 2nd respondent College. The contention of the petitioner is that after retirement, the first respondent is bound to submit a pension proposal along with “No Due Certificate”, so that, the petitioner would receive the terminal benefits within reasonable time without delay. However, deliberately the first respondent delayed in issuing “No Due Certificate”.

10. The contention of the 1st and 2nd respondents is that since the petitioner has not handed over the stock register and other materials belonging to the Fine Arts Club, “No Due Certificate” was not issued. This fact is admitted by the petitioner as well as the 1st and 2nd respondents.



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11. Therefore, this Court is of the considered opinion that the dispute is between the 1st & 2nd respondents and the petitioner. Therefore, the first respondent is bound to pay the interest for delay period. The third respondent has issued a letter dated 05.05.2014 directing the first respondent to issue No Due Certificate. Admittedly, pending this Writ Petition, the second respondent has issued No Due Certificate on 26.05.2016. Therefore, this Court is fixing the delay period from 05.05.2014 to 25.05.2016.

12. The petitioner is also responsible for the delay payment of pensionary benefits, since the petitioner has not handed over the stock register, stocks of Fine Arts Club at appropriate time. Any mistake is committed by any person, then that person ought to take responsibility and it cannot be set off on the other person. The petitioner has committed mistake by not handing over the stocks register and other stocks and he is liable to be punished for his mistake. The 1st and 2nd respondents have committed mistake by disbursing the pension belatedly and they ought to be punished. The mistake of petitioner cannot be set off on the 1st and 2nd respondents. Likewise, the mistake of the 1st and 2nd respondents cannot be set off on the petitioner.



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13. Therefore, to meet the ends of justice, the following order is passed:

- a. The 1st and 2nd respondent shall pay 6% interest per annum for the delay period from 05.05.2014 to 25.05.2016.
- b. The petitioner shall pay Rs.25,000/- (Rupees Twenty Five Thousand only) as penalty for not handing over the stock register and stocks in time.
- c. On payment of Rs.25,000/- (Rupees Twenty Five Thousand only) by the petitioner, then the 1st and 2nd respondents shall pay the interest.

14. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

04.11.2022

Index : Yes / No

Internet : Yes

Nsr



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S.SRIMATHY, J

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