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W.P.Nos.19633, 20016 & 20020 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.19633, 20016 & 20020 of 2023
and W.M.P.No.18891 of 2023

- 1.Dr.Antony P.X
- 2.Dr.K.V. Subba Reddy
- 3.Dr.C. Thandava Murthy
- 4.Dr.V. Kesava Rao
- 5.Dr.Devendra Kumar
- 6.Dr.P.V. Sreenivasaiah
- 7.Dr.S.V. Narasimha Rao
- 8.Dr.K.C. Varshney
- 9.Dr.NimaiKumar.Maity
- 10.Dr.Chakradar Das
- 11.Dr.M. Satyanarayana Raju (Died)
- 12.Dr.Anjan Bhattacharya
- 13.Dr.C.R. Girija
- 14.Dr.B. Ramesh Kumar
- 15.Dr.R. Sreekrishnan
- 16.Dr.Alphonse R M. D
- 17.Thiru M. Purushothaman
- 18.Dr.D. Antoine



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19.Dr.T.P. Balagopalan

20.Dr.Uttam Kumar Pal

21.Dr.Sidhartha Sankar Das

22.Dr.C.R. Girija

23.Smt.G. Swarnalatha

24.Smt Uma Ramalingam

25.Smt. Aradhana Agrawal

26.M. Lakshmi

... Petitioners in WP.No.19633/2023

[P-26 substituted as LR of deceased P11, as per order dated 12.12.2023 in WMP.No.34654 of 2023 in WP.No.19633 of 2023 by MSRJ]

Dr.D. Venka Reddy

... Petitioner in WP.No.20016/2023

Dr.R. Madhusoodhanan Pillai

... Petitioner in WP.No.20020/2023

Vs.

1.The Union of India,
Rep. by its Secretary,
Ministry of Home Affairs,
New Delhi.

2.The Secretary to Government cum Chairman,
Pondicherry Veterinary College Society,
Animal Husbandry and Animal Welfare Department,
Government of Union Territory of Puducherry,
Puducherry.

3.The Dean,
Rajiv Gandhi Institute of Veterinary Education and Research,



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Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry – 605 009.

4. Department of Personnel and Administrative Reforms,
Rep. by its Secretary,
Government of Union Territory of Puducherry,
Puducherry.

... Respondents in WP.No.19633 & 20020/2023

1. The Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.

2. The Chief Secretary,
Government of Union Territory of Puducherry,
Puducherry.

3. The Secretary to Government cum Chairman,
Pondicherry Veterinary College Society,
Animal Husbandry and Animal Welfare Department,
Government of Union Territory of Puducherry,
Puducherry.

4. The Dean,
Rajiv Gandhi Institute of Veterinary Education and Research,
Member Secretary, Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry – 605 009.

... Respondents in WP.No.20016/2023

Prayer in WP.No.19633/2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the Terminal benefits i.e. Gratuity, Leave salary, Commutation, Family Pension/monthly pension payable to the petitioners



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as per their respective pension payment orders and the arrears of monthly pension due to the petitioners with interest at the rate of 18% per annum with effect from the date which they are entitled till the date of disbursement and further direct regular payment of monthly pension including Dearness Relief at an enhanced rates.

Prayer in WP.Nos.20016 & 20020/2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the arrears of monthly pension with applicable dearness relief due from October 2021, together with interest at the rate of 18% per annum on such amount from the due dates till the date of disbursement and further ensure proper disbursement of pension every month on the due date henceforth.

(in WP.No.19633/2023)

For Petitioners	: Mr.Vijay Narayanan, Senior Counsel for Ms.Gayathri Vasudevan
For R1	: Mr.B. Sudhir Kumar, Senior Panel Counsel
For R2 & R4	: Mr.R. Sreedhar, Additional Government Pleader (Pondy)
For R3	: Mr.J. Kumar, Additional Government Pleader (Pondy)

(in WP.No.20016/2023)

For Petitioner	: M/s.Menon & Mukundan
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For R1 : Mr.A. Veeramani,
Central Government Counsel

For R2 & R3 : Mr.R. Sreedhar,
Additional Government Pleader (Pondy)

For R4 : Mr.J. Kumaran,
Additional Government Pleader (Pondy)

(in WP.No.20020/2023)

For Petitioner : M/s.Menon & Mukundan

For R1 : Mr.A. Veeramani,
Central Government Counsel

For R2 & R4 : Mr.R. Sreedhar,
Additional Government Pleader (Pondy)

For R3 : Mr.J. Kumaran,
Additional Government Pleader (Pondy)

COMMON ORDER

Heard the learned counsel appearing on either side.

2. In all these Writ Petitions, the petitioners have retired from their respective services from Rajiv Gandhi Institute of Veterinary Education



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and Research (hereinafter called as 'RIVER') between 31.05.2010 and 26.05.2018. It is stated that for the employees who have retired before 2016, the retirement benefits and pension were being paid. However, for some of the Writ Petitioners who had retired in and after the year 2016, the retirement benefits have not been paid to them. Hence, the petitioners have sought for the release of terminal benefits/monthly pension.

3. When some of the Writ Petitioners had approached this Court repeatedly, seeking for disbursement of their retirement benefits, as well as for sanction of pensionary benefits, several orders came to be passed. One such order came to be passed in the case of ***'Dr.R.Madhusoodhanan Pillai Vs. The Secretary to Government & others' in WP.Nos.18728 & 24739 of 2019 on 31.10.2019***, wherein it was held as follows:-

.... “5. On notice, the learned counsel appearing for the respondents 3 and 4 would submit that during the pendency of the Writ Petitions, the pensionary benefits were paid to the petitioners up to May 2019 and the balance amounts will be disbursed to them within a period of twelve weeks.

6. In view of the concerned view expressed by the learned counsel for the respondents 3 and 4, there is no need



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for any further adjudication in these Writ Petitions. However, liberty granted to the petitioners to file appropriate petition before this Court, if the balance amount were not disbursed to them within a period of twelve weeks from the date of receipt of a copy of this order....”

4. The aforesaid extract is self-explanatory. In spite of specific directions having been issued, RIVER is yet to disburse the retirement benefits, as well as the pensionary benefits.

5. The only reason assigned in the counter-affidavit filed by RIVER is that, approximately Rs.17 Crores are pending to the petitioners, as on date, towards settlement of the terminal benefits and arrears of pension and the Government will be requested to allocate funds under the Grant-in-aid for settling the pensioners.

6. The Government have also filed a counter-affidavit stating that they do not deny the right of the petitioners to receive the pension and other due benefits and that the delay in disbursal of the same is only due to the financial constraints faced by RIVER.



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7. The learned Additional Government Pleader submitted that the Puducherry Government has now passed an order in G.O.Ms.No.2/AH, dated 10.08.2023, for release of Grant-in-aid to RIVER and that a decision will be taken in the next Assembly Session, to be held on 01.03.2024 and thereby, sought for time to disburse the retirement/pensionary benefits to the petitioners.

8. The learned Senior Counsel appearing for the petitioners placed reliance on a decision of the Hon'ble Supreme Court in the case of ***'Punjab State Cooperative Agricultural Development Bank Limited Vs. Registrar, Cooperative Societies & others'*** reported in ***'(2022) 4 SCC 363'***, wherein, it was held that the financial constraint faced by the Department, cannot be an adequate reason for denial of the vested right of an employee to receive the retirement/pensionary benefits. The relevant portion of the order reads as follows:-

..... ***“56. So far as the submission made by the learned counsel for the appellant about the financial distress of the appellant Bank to justify the impugned amendment to say that it may not be possible to***



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continue the grant of pension any more is concerned, suffice to say, that the rule-making authority was presumed to know repercussions of the particular piece of subordinate legislation and once the Bank took a conscious decision after taking permission from the Government of Punjab and Registrar, Cooperative, introduced the pension scheme with effect from 1-4-1989, it can be presumed that the competent authority was aware of the resources from where the funds are to be created for making payments to its retirees and merely because at a later point of time, it was unable to hold financial resources at its command to its retirees, would not be justified to withdraw the scheme retrospectively detrimental to the interests of the employees who not only became member of the scheme but received their pension regularly at least up to the year 2010 until the dispute arose between the parties and entered into litigation.

57. In our view, non-availability of financial resources would not be a defence available to the appellant Bank in taking away the vested rights accrued to the employees that too when it is for their socio-economic security. It is an assurance that in



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their old age, their periodical payment towards pension shall remain assured. The pension which is being paid to them is not a bounty and it is for the appellant to divert the resources from where the funds can be made available to fulfil the rights of the employees in protecting the vested rights accrued in their favour.....”

9. The learned Additional Government Pleader appearing for RIVER made a faint attempt to submit that a huge amount of Rs.17 Crores is pending towards disbursement of the retirement and pensionary benefits and therefore, as and when the Grant-in-aid is received, the same would be disbursed on security basis.

10. I am not in agreement with such a submission.

11. This is an accumulated liability which the RIVER had brought upon itself over a long period between 31.05.2010 and 26.05.2018 and owing to their inaction in the prompt disbursal of the funds, this liability has incurred. Thus, the petitioners would be entitled for interest on the outstanding payment. Now that the Government in G.O.Ms.No.2/AH,



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dated 10.08.2023, had agreed to release the Grant-in-aid to RIVER, the release of these funds to the petitioners herein, along with contribution of RIVER, shall be made as soon as the funds are received. It is hereby clarified that RIVER shall not, in any way, divert or otherwise, utilize these funds for any other purpose except for disbursement of the petitioners' retirement and pensionary benefits.

12. Considering the above submissions made by the respective counsel, the vested right of the petitioners, to receive the retirement/pensionary benefits, has been protected and by taking into account that the Government has already passed an order for release of Grant-in-aid to RIVER and a decision is to be taken in this regard by 01.03.2024, this Court is of the view that the respondents can be granted time till 15.04.2024, to disburse the benefits to the petitioners.

13. In the light of the above observations and findings, there shall be a direction to the respondents herein, to pass appropriate orders to disburse the terminal benefits, monthly pension and the arrears of monthly pension, with applicable dearness relief to the petitioners, as per their



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respective pension payment orders, along with interest at the rate of 18% per annum with effect from the date on which the monetary benefits were due and payable to them, till the date of disbursement, on or before 15.04.2024.

14. With the above directions, all the Writ Petitions stand allowed.

No costs. Connected miscellaneous petition is closed.

18.12.2023

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes

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1. The Secretary,
Union of India,
Ministry of Home Affairs,
New Delhi.
2. The Chief Secretary,
Government of Union Territory of Puducherry,
Puducherry.
3. The Secretary to Government cum Chairman,
Pondicherry Veterinary College Society,
Animal Husbandry and Animal Welfare Department,
Government of Union Territory of Puducherry,
Puducherry.
4. The Dean,
Rajiv Gandhi Institute of Veterinary Education and Research,
Pondicherry Veterinary College Society,
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Puducherry – 605 009.
5. The Secretary,
Department of Personnel and Administrative Reforms,
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M.S.RAMESH,J.

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