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W.P. No.33425 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.33425 of 2012

J.Achutha Raman

... Petitioner

Vs.

1.The State of Tamil Nadu represented

By its Secretary to Government, Department
Of Health, Fort St. George, Chennai-600 009.

2.The Dean

Kilpauk Medical College & Hospital
Chennai-600 010.

3.The Superintendent

Government Hospital of Thoracic Medicine
Tambaram, Chennai-600 047.

4.The Pension Payment Officer

College Road, Chennai-600 006.

5.The Accountant General (A&E)

Office of the Accountant General (A&E)
of Tamil Nadu,
361 Anna Salai, Chennai-600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Mandamus directing the respondents to pay



interest for the delayed payment of Famil Pension sanctioned and paid to the petitioner due to the death of his mother, Late R.Ramadevi.

For Petitioner : Mr.K.Rajasekaran

For Respondents : Mr.Ameedius
Government Advocate for R4
Mrs.Hema Muralikrishnan for R5.

ORDER

The writ petition has been filed seeking writ of mandamus to direct the respondents to pay interest for the delayed payment of family pension sanctioned to the petitioner, consequent upon the death of the petitioner's mother, late R.Ramadevi.

2. The petitioner's mother worked as Nurse in the Department of Health, Government of Tamil Nadu, under the control of the Directorate of Medical Services. She passed away on 09.05.1993 while working as Nurse in Tambaram hospital i.e 3rd respondent herein. The petitioner was aged about 4½ years on the date of the death of his mother. Thereafter, father of the petitioner namely, M.Janarthanan, applied for payment of family pension. But the said family pension was not granted in favour of father of the petitioner till the year 2008. However, in the year 2008, the family pension



was paid in favour of the petitioner herein, based on the representation submitted by father of the petitioner that he was already remarried and requested for payment of family pension in favour of the petitioner herein. Thus, an amount of Rs.8,00,978/- was paid on 21.02.2012, towards family pension consequent upon the death of his mother i.e almost after a period of 2 decades. After the payment of said pension, the petitioner made a representation for payment of interest for the delayed period. Having not received any response from the respondents, the petitioner approached this Court by filing this present writ petition.

3. The respondents 2 to 4 have not chosen to file any counter, though this writ petition is of the year 2012. The 5th respondent filed counter affidavit. On perusal of the said counter affidavit, it is noticed that though the mother of the petitioner died on 09.05.1993, pension proposals were forwarded to the 5th respondent only on 06.08.1999 and the reason for such delay is stated to be various administrative reasons. From the said counter affidavit, there is nothing to suggest that neither the petitioner herein nor his father is responsible for the delay in any manner for the payment of family pension. The relevant portion from the said counter affidavit reads as under:



“i] Smt. R Ramadevi, mother of the petitioner passed away while in Government service on 09.05.1993.

ii] Proposals from the Superintendent, Government Thoracic Hospital, Tambaram, for issue of authorisation for payment of Family Pension, in favour of her spouse Sri.M.Janarthanan was received in this respondent's office only on 06.08.1999.

iii] After due process, Family Pension was authorised by this respondent on 09.12.1999 in favour of Sri.M.Janarthanan. While authorising the Famil Pension, the Superintendent, Government Thoracic Hospital, Tambaram was requested to furnish reasons for the delay of almost six years in forwarding the pension proposals to this respondent. The Superintendent, Government of Thoracic Hospital, Tambaram, in the reply letter Na.Ka.No.9241/Admn2/99 dated 05.01.2000, stated that the delay was due to various administrative reasons.

iv] Since it was reported that Sri. M.Janarthanan, the spouse of late Smt. R Ramadevi, was not in receipt of the Family Pension authorization, a letter dated 13.12.2002 was issued by this respondent, advising the Pension Pay Officer to make arrangement for payment of Family Pension.

v] On 24.06.2008, Sri. M. Janarthanan informed the Superintendent, Government of Thoracic Hospital,



Tambaram, that he is yet to receive Family Pension and also intimated that he had remarried on 26.08.1994 and requested that his son Sri. J. Achudha Raman, be sanctioned Family Pension w.e.f 26.08.1994.

vi] Hence, the Pension Pay Office, Chennai was addressed by this respondent on 16.09.2008 to return both halves of the Family Pension Book and the same was received on 21.10.2008.

vii] Income Certificate in respect of the petitioner, Sri. J. Achudha Raman, was also called for and the same was received on 04.12.2009.

viii] Sri. M. Janarthanan, was advised to forward the Family Pension Proposals in favours of the Petitioner, through the Superintendent, Government Thoracic Hospital, Tambaram.

ix] Since the proposals from the Department was not forthcoming, Sri.M.Janarthanan, furnished a copy of the proposals in his letter dated 04.07.2011. As a special case, based on this letter Family Pension in favour of the petitioner was authorised on 04.08.2011.”

4. From the above, it is clear that there is no delay or fault on the



part of the petitioner or his father in submitting an application for the payment of family pension. But on the other hand, the delay is only on the part of the respondents for various administrative reasons. Thus, the petitioner was deprived of family pension since the year 1993 till 2012, without there being any sufficient reason or without there being any fault on the part of the petitioner herein. The respondents have been enjoying the amounts, in fact, payable to the petitioner for about two decades. The pension or family pension is not bounty. But, it is a right earned by the employee on rendering services for a particular period. Thus, the delay or denial of payment of such pension or family pension is bound to be declared as illegal and arbitrary.

5. In the facts and circumstances of the case, this Court is of the considered view that there is no justifying reason for the respondents in not paying the family pension to the petitioner, consequent upon the death of his mother as early as on 09.05.1993. Consequently, this writ petition is allowed directing the respondents to calculate and pay interest on the delayed payment of family pension from 09.05.1993 till 21.02.2012, at the rate of 9% per annum as expeditiously as possible at any rate within a period of three



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months from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

To:

- 1.The Secretary to Government,
Department of Health,
Fort St. George, Chennai-600 009.
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