



WEB COPY



W.P.No.2175 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.2175 of 2017

C.Nallammal

.. Petitioner

VS

1.Tamilnadu Generation and Distribution
Corporation Ltd.,
Rep. By its Managing Director,
No.144, Anna Salai,
Chennai – 2.

2.The Chief Engineer (Personnel)
Tamilnadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai – 2.

3.The Superintending Engineer,
Namakkal Electricity Distribution Circle,
Tamilnadu Generation and Distribution Corporation Ltd.,
Namakkal.

4.The Executive Engineer (General
& MRD/Public Information Officer),
Namakkal Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Ltd., Namakkal.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the order in Letter No.249/Ni.Pi.2/E.Ni.U.2/Ko.Thani/2016 dated 07.10.2016 from the 3rd respondent, quash the same and consequently direct the respondents to pay the petitioner interest for the belated payment of DCRG at the rate of 8.7% per annum compounded annually; to



W.P.No.2175 of 2017

pay interest for the belated payment of Family Security fund Amount, Earned Leave Salary, Unearned Leave Salary on Private affairs, arrears payable as per the wage revision settlement and family pension respectively at the rate of 12% per annum and to pay her interest for the payment of General Provident Fund Special Provident Fund and the New Special Provident Fund at the rate of 8.7% per annum.

For Petitioner : Ms.V.Porkodi
for Mr.R.Krishnaswamy

For Respondents : Mr.K.Purushothaman
Standing Counsel

ORDER

Writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the Letter No.249/Ni.Pi.2/E. Ni.U.2/Ko.Thani/2016 dated 07.10.2016 issued by third respondent, the Superintending Engineer, Namakkal Electricity Distribution Circle, Tamilnadu Generation and Distribution Corporation Ltd., at Namakkal and quash the same and direct the respondents to pay the interest for the belated payment of DCRG at the rate of 8.7% per annum compounded annually and also to pay interest for the belated payment of Family Security fund Amount, Earned Leave Salary, Unearned Leave Salary on Private affairs, and on the arrears payable as per the wage revision settlement and on family pension respectively at the rate of 12% per annum and also interest on General Provident Fund, Special Provident Fund and the New Special Provident Fund at the rate of



W.P.No.2175 of 2017

8.7% per annum.

WEB COPY

2. The husband of the petitioner E.Chinnathambi, was originally employed as Contract Labour under the third respondent / Namakkal Electricity Distribution Circle, Tamilnadu Generation and Distribution Corporation Ltd. at Namakkal. He was, however, subsequently absorbed as Helper consequent to the report of the One Man Commission / Hon'ble Mr.Justice.V.Khalid, Retired Judge of the Hon'ble Supreme Court. He was then promoted as Wireman. He died while he was in service on 15.02.2014.

3. The grievances of the petitioner thereafter started. It is claimed that she first informed about death of her husband on 07.03.2014 and sought recognition to pay entitlement of terminal benefits. However, there were some issues within the family and a letter was communicated by the petitioner on 01.07.2014. She had also written a further letter on 15.09.2014 and then a series of letters on 22.09.2014, 24.01.2015, 01.04.2015, 06.05.2015, 10.06.2015, 11.06.2015, 25.07.2015, 21.09.2015, 03.10.2015, 06.12.2015 and 29.12.2015. There was no response from the respondents herein.

4. Finally, a letter dated 25.01.2016 emanated from the



W.P.No.2175 of 2017

respondents stating that disciplinary proceedings which were pending at the time of death of her husband had been cancelled. It must be stated that once an employee dies any penal action leading to punishment initiated even in the nature of disciplinary proceedings will automatically lapse and abate. This is because punishment cannot be imposed on any other individual. Such penal proceedings / disciplinary proceedings are individual focused and there cannot be anybody else to step into the shoes to defend the charges.

5. The respondents, however, stated that though the husband of the petitioner died on 15.02.2014, they had taken a decision to drop the disciplinary proceedings only on 25.01.2016. But the grievances of the petitioner was addressed, namely, payment of DCRG and other terminal benefits.

6. The petitioner then had taken recourse to get information under the Right to Information Act and then it was informed that on 07.10.2016, her request for interest had been refused stating that her application had been filed after a period of three months.



W.P.No.2175 of 2017

7. Learned counsel for the petitioner stated that there is no statutory rule stipulating that such an application should be filed within a period of three months. But it is to be taken that the duty of the employer, once informed that an employee had died, is to take under their hold the legal representatives of the deceased employee / dependants and ensure that the benefits which are payable are paid at the earliest. If there is any delay in such payment then they should be liable to pay interest. There cannot be a stipulation that a formal application should be filed and that it should also be filed within a period of three months. The impugned order therefore does not convey any meaning and is set aside.

8. The issue now is about the direction of payment of interest for the delayed payment. A perusal of the records show that there has been delay and in fact a substantial delay even in cancelling or setting aside or not proceeding with the disciplinary proceedings even after knowledge that the husband of the petitioner had died. Taking a decision after nearly two years, with respect to that fundamental aspect itself shows vindictiveness of the respondents.

9. The minute a person dies, the charges abate and there



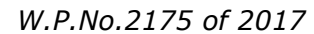
W.P.No.2175 of 2017

cannot be any further proceedings as against the dead person with respect to any charge which had been framed against him. Therefore, the interest naturally follows.

10. Learned counsel for the petitioner placed reliance on a Division Bench judgment of this Court in the case of *Govt. of Tamil Nadu Rep. By its Secretary to Government, Revenue Department and another v M.Deivasigamani* [(2009) 3 MLJ 1].

11. The Division Bench had placed reliance on an earlier judgment of the Hon'ble Supreme Court in the case of *S.K.Due v State of Haryana* [(2008) 3 SCC 44], wherein it had been held that interest follows for delayed payment.

12. Therefore, the respondents are directed to pay interest in accordance with the rules and regulations for the delayed payment of the benefits to the petitioner herein. Necessary proceedings in this regard determining the rate of interest and the quantum of interest to be issued by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. If the respondents entertain / seek clarification, they may issue notice to the petitioner herein and thereafter issue the



13. A further perusal of the record shows that Purushothaman, learned Standing Counsel, had insisted that name should be printed. The name has been printed in the e-list, but unfortunately, counter affidavit has not been filed. If the issue revolves around payment of interest and dropping disciplinary proceedings, I find no reason to hold the matter on the file of this Court any further.

21.08.2023

4.The Executive Engineer (General & MRD/Public Information Officer),Namakkal Electricity Distribution Circle,



W.P.No.2175 of 2017

Tamilnadu Generation and Distribution
Corporation Ltd., Namakkal.

WEB COPY



WEB COPY



W.P.No.2175 of 2017

C.V.KARTHIKEYAN,J.

ssm

W.P.No.2175 of 2017

21.08.2023