



Writ Petition No.19129 of 2017

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 09.10.2023**

**CORAM**

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**Writ Petition No.19129 of 2017**

**and**

**W.M.P.No.20636 of 2017**

A.Rajagiri

... Petitioner

Vs.

- 1.The Government of Tamil Nadu  
represented by its Principal Secretary,  
Rural Development and Panchayat Raj (E1)  
Department,  
Fort St.George, Chennai - 600 009.
- 2.The Director of Rural Development and  
Panchayat Raj Department,  
Panagal Building, Saidapet, Chennai - 600 015.
- 3.The District Collector (PD Section),  
Kancheepuram District,  
Kancheepuram.
- 4.The Assistant Director of Audit (G),  
Rural Development Department,  
Krishnagiri.



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5.The Principal Accountant General (A&E) Tamil Nadu,  
No.361, Anna Salai,  
Chennai - 600 018.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pay regular pension and arrears of pension from the date of retirement viz., 30.09.2014 together with interest at the rate of 12% from 09.12.2016, the date on which the fifth respondent sanctioned pension till the date of realization and commuted value of pension.

For Petitioner : Ms.T.Hemalatha

For Respondents : Mr.L.S.M.Hasan Fizal  
Additional Government Pleader [R1 to R4]  
Mr.S.Balaji [R5]

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### **ORDER**

This Writ Petition has been filed seeking for issuance of a writ of mandamus directing the respondents to pay regular pension and arrears of pension from the date of retirement viz., 30.09.2014 together with interest at the rate of 12% from 09.12.2016, the date on which the fifth respondent sanctioned pension till the date of realization and commuted value of pension.



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2. The case of the petitioner is as follows:

2.1. The petitioner initially joined as Junior Assistant in the Rural Development Department in the year 1985 through Tamil Nadu Public Service Commission and posted at composite Dharmapuri district later became bifurcated Krishnagiri District. Thereafter, he has secured periodical promotion viz., Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer and Assistant Director of Rural Development. The petitioner was promoted to the cadre of Assistant Director of Rural Development (Panchayats) and initially posted as Assistant Project Officer, DRDA, Tiruvallur, during August 2010. Thereafter, the petitioner was transferred to Kancheepuram District with effect from 22.04.2013 as Assistant Director of Rural Development (Panchayats), Kancheepuram.

2.2. While so, on 05.08.2014, the second respondent issued a Charge Memo against the petitioner with regard to Audit objections, which are pending with regard to payments made while the petitioner was working as



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Block Development Officer at Hosur, Krishnagiri District between 03.07.2008 and 15.07.2009. The petitioner submitted his explanation on 22.08.2014 to the charge memo dated 05.08.2014 of the second respondent refuting the allegations. The petitioner attained the age of superannuation on 30.09.2014. However, the petitioner was placed under suspension by G.O.(D) No.421, Rural Development and Panchayat Raj (E1) Department dated 29.09.2014 and he was not permitted to retire from service on 30.09.2014. An enquiry was conducted and the petitioner has also submitted his further representation on the remarks of the enquiry officer. On 29.09.2015, the petitioner was allowed to retire from service *vide* G.O.(D) No.497, Rural Development and Panchayat Raj (E1) Department dated 29.09.2015 subject to the pending disciplinary proceedings.

2.3. Pursuant thereto, the Government had written a letter to the petitioner informing that they have come to a provisional conclusion to impose a punishment of cut in pension for a sum of Rs.100/- p.m. for a period of one year as penalty in culmination of disciplinary proceedings



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initiated against the petitioner. In order to give quietus to the issue, the petitioner consented for the same. The first respondent issued G.O.Ms.No.44, Rural Development and Panchayat Raj (E1) Department imposing punishment of cut in pension of Rs.100/- p.m. for a period of one year from the monthly pension payable to the petitioner. However, the respondents had denied regular pension and payment of commuted value of pension by citing audit objection, which were pending with regard to discharge of petitioner's duty as Block Development Officer at Hosur Panchayat Union in the year 2008-09. Hence, the petitioner has filed the present petition seeking for the aforesaid relief.

3. Heard Ms.T.Hemalatha, learned counsel for petitioner and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for respondents 1 to 4 and Mr.S.Balaji, learned counsel appearing for fifth respondent.



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4. Learned counsel for petitioner submitted that the grievance of the petitioner is that though there is no impediment to pay regular pension and commuted value of pension as the Accountant General has sanctioned for payment of regular pension to the petitioner, the respondents had denied regular pension on the ground of pendency of audit objection. The disciplinary proceedings itself were initiated only based on the audit objection and final orders have also been passed. Hence, the action of the respondents in not paying pension to the petitioner after the same was sanctioned by the fifth respondent is unsustainable and hence, the petitioner is entitled to seek interest for the delayed payment of pension at 12%.

5. Learned Additional Government Pleader appearing for respondents 1 to 4, relying on the counter and additional counter filed by third respondent, submitted that the petitioner has failed to produce the certificate of no audit objections. The petitioner was required to appear before the Sub-Treasury Officer, Alandur, on various dates along with necessary documents for payment of pension and commuted value of pension,



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however, the petitioner has failed to appear. While the petitioner was working as Block Development Officer, Hosur, serious charges were framed against him and the petitioner was placed under suspension. Since the petitioner was permitted to retire from service subject to disciplinary proceedings pending against him, he is eligible for provisional pension, provided that the petitioner has to give Life Certificate and Non-Employment Certificate to the concerned Drawing Officer, but, the petitioner has failed to do so. After passing of final orders on 04.02.2016 by the Government imposing punishment of recovery of a sum of Rs.100/- p.m. for a period of one year from the pension of the petitioner, necessary pension proposals were sent to the Director of Rural Development, Chennai, on 04.11.2016, who in turn, sent the pension proposal to the Accountant General, Chennai, on 17.11.2016. Upon receipt of the same, the Accountant General, Chennai, has sanctioned the following pensionary benefits on 19.12.2016: (a) Pension : Rs.12,016/-; (b) Retirement Gratuity : Rs.7,46,170/- and (c) Commuted value of pension : Rs.3,94,992/-. Out of the aforesaid amount, retirement gratuity of Rs.7,46,170/- was paid to the



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petitioner on 18.01.2017 and a sum of Rs.4,22,880/- was paid on 10.11.2016 towards encashment of earned leave for 240 days. Having failed to produce the Life Certificate and Non-Employment Certificate, it is not open to the petitioner to seek for payment of 12% interest on pension from 19.12.2016. Submitting as above, learned Additional Government Pleader prayed for dismissal of the present petition.

6. Learned counsel for fifth respondent relying on the counter filed by the fifth respondent and reiterating the submissions made by learned Additional Government Pleader, submitted that petitioner had been called for by the Sub-Treasury Officer, Alandur, on various dates for mustering of pension at the outset, but, he has failed to appear before the said Officer in spite of several reminders sent to him. As the delay has occurred owing to non-appearance of the petitioner before the concerned officer and non-production of necessary documents, the petitioner is not at all entitled to claim 12% interest on pension and on arrears of pension from 19.12.2016 to 15.11.2017, on which date the pension and arrears of pension was released



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to the petitioner. Submitting as above, learned counsel prayed for dismissal of the present petition.

7. On carefully considering the submissions made on either side and the materials available on record, this Court is of the view that the delay in payment of pension has occurred only due to failure of the petitioner to appear before the concerned authority despite several reminders and non-production of necessary documents. In such circumstances, the claim of the petitioner to pay interest at 12% on the delayed payment of pension and arrears of pension is unsustainable and the same is accordingly rejected.

In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**09.10.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral citation: Yes/No  
gm



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**V.BHAVANI SUBBAROYAN, J**  
gm

To

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Government of Tamil Nadu  
Rural Development and Panchayat Raj (E1)  
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Fort St.George, Chennai - 600 009.
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