



**WP.No.26402/2018**

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

**DATED 14.09.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN**

**WP.No.26402/2018**

**N.Vellaichamy**

**... Petitioner**

**Versus**

- 1.The State of Tamil Nadu  
rep.by its Secretary to Government  
Tamil Development & Information  
Department, Secretariat,  
Chennai 600 009.
- 2.The Chief Secretary to Government  
Government of Tamil Nadu  
Secretariat, Chennai 600 009.
- 3.The Director of Tamil Development  
Tamil Valarchi Valagam, 1<sup>st</sup> Floor  
Tamil Salai, Egmore,  
Chennai 600 008.

**... Respondents**

**Prayer :-** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the entire records pertaining to the impugned letters of communication issued by the 3rd Respondent - director of Tamil Developmnet in Na.Ka.No.3976/Ni-



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1/2014 dated 19.06.2014 Na.Ka.No.Ni-1/7026/2014 dated 14.08.2014  
Na.Ka.No.Ni1/7614/2014 dated 22.09.2014 Na.Ka.No.Ni-1/2371/2015  
dated 11.05.2015 Na.Ka.No.Ni-1/714/2016 dated 26.02.2016 dated  
16.09.2016 and quash the same and consequently direct the respondents to  
pay interest at the rate of 24 percent per annum with effect from 01.05.2008  
for the delay in making the payment of a sum of Rs.5 19 996/- being the  
benefits of arrears of salary dues in the promoted post of Assistant Director  
of Tamil Development and Deputy Director of Tamil Development with  
effect from 18.10.1990 and 20.09.2000 respectively, till the payment of  
arrears of salary was actually remitted into the petitioner's savings bank  
account through ECS on 24.06.2013.

For Petitioner : Mr.G.Elanchezhiyan

For Respondents : Mr.V.Nanmaran, AGP

**ORDER**

- (1) The writ petition has been filed in the nature of a certiorarified  
mandamus seeking records relating to the letters issued by the 3<sup>rd</sup>  
respondent, Director of Tamil Development and to quash all the letters  
and to direct the respondents to pay interest @ 24% per annum with  
effect from 01.05.2008 for the delay in making payment of a sum of  
Rs.5,19,996/- being the benefit of arrears of salary due in the



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promoted post of Assistant Director of Tamil Development and Deputy Director of Tamil Development with effect from 18.10.1990 and 20.09.2000 respectively till the date of actual payment of the arrears of salary which was remitted to the Savings Bank Account of the petitioner on 24.06.2013.

- (2) In effect, the petitioner claims that for the arrears of salary which had been credited to his account through ECS on 24.06.2013, to a sum of Rs.5,19,996/-, the respondents are also liable to pay interest from 01.05.2008 till 24.06.2013 @ 24% per annum.
- (3) The petitioner had entered the Government service as Typist in the office of the Director of Tamil Development on 12.01.1972. he had been promoted to the post of Assistant, Superintendent, Assistant Director and Deputy Director and finally, he retired from the Government service on attaining the age of superannuation on 30.04.2007 as Deputy Director in the Department of Tamil Development.
- (4) When he was working as Superintendent, the respondents had rejected his request for promotion to the post of Assistant Director.



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This necessitated the petitioner to file OA.No.226/2000 before the Tamil Nadu Administrative Tribunal. Notice had been directed by the Tribunal. Thereafter, by proceedings dated 03.04.2002, the earlier order issued on 14.05.1992, had been cancelled and effect was given to an order dated 15.05.1991 and the service of the petitioner in the post of Superintendent was regularised with effect from 15.05.1985. Thereafter, the petitioner had further grievances with respect to promotion to the post of Assistant Director and Deputy Director. On abolition of the Tamil Nadu Administrative Tribunal, OA.No.226/2000 which was filed by the petitioner, was transferred to this Court and renumbered as WP.No.4267/2006. The writ petition was dismissed on 08.03.2007. The petitioner then filed a writ appeal in WA.No.665/2007. By a judgment dated 03.04.2008, the writ appeal was allowed. It was directed that necessary promotion should be granted to the petitioner and proceedings should be issued within a period of four weeks from the date of receipt of a copy of that particular order. It was also stated that terminal benefits and other benefits should be paid to the appellant therein. The present writ



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petition has been filed on the ground that though such stipulation was given by the Division Bench vide judgment dated 03.04.2008, the respondents had finally settled the terminal benefits of Rs.5,19,996/- only on 24.06.2013 when the amount was transferred through ECS to the savings bank account of the petitioner. It is therefore stated that interest should be paid by the respondents for belated payment. The writ petition has been filed seeking such payment of interest.

- (5) Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.
- (6) The Court had the benefit of examining the records and more particularly, the sequence of events after the judgment was passed in the writ appeal. The date of passing the judgment in the writ appeal was 03.04.2008. Thereafter, the respondents had actually complied with the direction to grant promotion to the petitioner from the post of Superintendent to Assistant Director and also as Deputy Director by G.O.Ms.No.133, Tamil Development, Religious Endowments and Information Department dated 11.06.2009. It is thus seen that within a period of ten months, the order had been passed granting promotion



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to the petitioner to the post he sought, namely, the post of Deputy Director. But however, in the said Government Order, it had been stated that promotion would be considered notionally. Questioning that particular aspect, in the year 2010, after nearly a year, the petitioner filed WP.No.24502/2010. It is thus seen that though the respondents had passed an order, the petitioner had thought it necessary to question the same by filing a writ petition in the year 2010. That writ petition was pending before this Court for a period of 2 years. It was finally taken up for final hearing on 27.09.2012. On that particular date, a learned Single Judge had expressed an opinion that the petitioner was seeking consequential reliefs to an order passed by the Division Bench and therefore, stated that papers should be placed before the Hon'ble Chief Justice to be placed before the Division Bench. Final orders in the writ petition were not passed.

- (7) The learned counsel for the petitioner is not able to clarify as to the status of the said writ petition as on date. In stead of proceeding further with the writ petition, the petitioner had taken an alternate remedy by filing a contempt petition. He had filed a contempt petition



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in Cont.P.No.256/2013. This again indicates that the petitioner had abandoned the writ petition which he had filed, namely, WP.No.24502/2010 and independently filed Cont.P.No.256/2013. Thus, the time period from the year 2009 was moved to 2010. The petitioner filed a writ petition and when orders were passed, directing to place the writ petition before the Division Bench, the petitioner had taken a conscious decision to abandon that particular writ petition and then, had independently filed Cont.P.No.256/2013. The contempt petition came up before the Division Bench of this Court. It was finally ordered on 25.04.2013. At that time, it was observed by the Division Bench that compliance had been made and a detailed order had been passed on 20.04.2013. Thus, the passage of time, year after year, can be easily explained. It cannot be stated that there had been a deliberate delay on the part of the respondents. There are administrative sanctions to be obtained and the file will have to move from one desk to another and even the petitioner himself has also delayed in filing a writ petition after more than a year from the date on which the Government Order was passed granting the petitioner



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notional promotion and thereafter, had filed a contempt petition after abandoning the writ petition filed for the very same relief which writ petition was directed to be placed before a Division Bench. Till date, this Court does not know as to what had happened to that particular writ petition.

(8) The amount had been finally sanctioned and transferred to the account of the petitioner on 24.06.2013 within a period of two months from the date on which final orders had been passed, as stated before, by the Division Bench. Thus, I hold that there is no inordinate delay and further hold that the delay, if at all had also occurred owing to various petitions filed by the petitioner herein and during the pendency of either the writ petition or of more particularly, WP.No.24502/2010, the respondents would not be in a position to pass any orders. They would naturally await orders of the Court. The delay is, therefore, explainable.

(9) The learned counsel for the petitioner relied on the judgment of a learned Single Judge of this Court reported in **2012 [5] MLJ 230 [R.Velusamy Naidu Vs. Commissioner of Municipal**



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***Administration, Ezhilagam, Chennai and Others].*** In that particular case, it had been found that orders have been passed by the Tribunal on 12.05.2004 in OA.No.2065/2004 and there had been no appeal filed and the order had become final on the date of passing of the order of the Tribunal. Therefore, it was directed that interest should be paid since the terminal benefits had been disbursed only on 01.08.1998. In the instant case, the delay, as is seen from the above narration, can be and is explainable. Therefore, the ratio laid down in the judgment cited supra, would not be applicable to the facts of this case.

- (10) The learned counsel for the petitioner also placed reliance on the judgment of another learned Single Judge of this Court in WP [MD] No.20062/2013 ***[B.Thirumoorthy Vs. The Secretary to Government, Highways Department, Chennai and Another].*** By an order dated 22.03.2017, the learned Single Judge was called upon to examine the issue of delay and grant of interest. It is seen that in that particular case, the petitioner therein had joined duty on revocation of the order of suspension on 23.10.1999 and the salary between 08.02.1999 and



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22.10.1999 was actually paid only 13.10.2010, after a delay of 11

years. The only reason advanced was administrative reasons.

Holding that, that was not a good justification, the learned Judge

directed interest to be paid. Again, the facts are distinguishable. In

the present case, where the delay is explainable, as is seen, is also

partly responsible since the petitioner had earlier filed

WP.No.24502/2010 which was pending on the file of this Court for

nearly about two years and thereafter, after one further year,

abandoning the said writ petition, though it had not been disposed of

by the learned Single Judge, the petitioner had filed a contempt

petition.

(11) The learned counsel for the petitioner also placed reliance on a

judgment of the Hon'ble Supreme Court reported in **2015 [4] SCC**

**164 [Union of India and Another Vs. S.N.Maity and Another]**. The

learned counsel placed specific reliance on the following portion in

paragraph No.24 of the said judgment:-

*"24..... In the present case, we are of the considered view, the appellant should not suffer the*



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*loss of salary, but if we direct for his reinstatement as the High Court has done, it will create an anomalous situation. It would be, in our considered view, not apt at this juncture and, therefore, the cause of justice would be best subserved if he is allowed to get the entire salary that was payable to him for the post of CGPDTM for the balance period, that is, five years minus the period he had actually served and drawn salary. The balance amount shall be paid with interest @ 9% p.a. within three months hence."*

- (12) It is thus seen that the Hon'ble Supreme Court had, as an alternate to grant of reinstatement, directed that salary should be paid and since reinstatement was not granted, directed interest to be paid on the arrears of salary which the 1<sup>st</sup> respondent therein would have been entitled to. The Division Bench of the High Court, from which appeal arose, had directed reinstatement. The Hon'ble Supreme Court had given an alternate relief and instead of reinstatement, directed payment of salary with interest. Again, the facts are distinguishable and would not be applicable to the facts of this case.



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(13) As repeatedly pointed out, the records reveal that there is no inordinate delay and further, the delay is explainable. I am not inclined to grant any interest. The petitioner had received the entire amount. He should be satisfied with that.

(14) The writ petition stands **dismissed**. No costs.

14.09.2023

AP

Internet : Yes

To

- 1.The Secretary to Government  
State of Tamil Nadu  
Tamil Development & Information  
Department, Secretariat,  
Chennai 600 009.
- 2.The Chief Secretary to Government  
Government of Tamil Nadu  
Secretariat, Chennai 600 009.
- 3.The Director of Tamil Development  
Tamil Valarchi Valagam, 1<sup>st</sup> Floor  
Tamil Salai, Egmore,  
Chennai 600 008.



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C.V.KARTHIKEYAN, J.,

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