



W.A.(MD)No.229 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD)No.229 of 2023
and
CMP(MD)No.2795 of 2023**

The Municipal Commissioner,
Palani Municipality,
Palani.

: Appellant

Vs.

1.R.Jayaraman

2.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai – 600 009.

3.The Commissioner of Municipal Administration,
7. Santhom Highway,
MRC Nagar,
Chennai – 600 028.

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 25.08.2022 passed in W.P.(MD) No.19602 of 2022.



W.A.(MD)No.229 of 2023

For Appellant : Mr.L.P.Maurya
For Respondents : Mr.J.Karthikeyan for R1
Mr.S.P.Maharajan for R2 and R3

JUDGMENT

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

The first respondent, who was working as Junior Assistant with the appellant Municipality, was allowed to retire on 30.06.2003. His retirement gratuity was disbursed after 17 years on 13.07.2020. The first respondent sent a representation seeking payment of interest for the belated payment of gratuity. It was the contention of the Municipality that disciplinary proceedings were pending against him and therefore, the gratuity could not be paid.

2. From the order passed by the disciplinary authority dropping the charges on 04.03.2020, we find that the charges were framed on 11.02.1997, 14.07.1997 and 30.05.2003 and the first respondent had submitted his explanation for the some of the charges on 10.06.2003 and 30.05.2003. The Enquiry Officer has submitted his report on 16.03.2003. However, the Commissioner of Municipal Administration has passed final order dropping the



W.A.(MD)No.229 of 2023

charges purely on efflux of time on 14.03.2020 i.e., **17 years** after the first respondent had retired and virtually 23 years after the first two sets of charges were framed. The Writ Court has allowed the writ petition directing the appellant Municipality to pay 6% interest for the belated payment of gratuity.

3. Mr.L.Maurya, learned counsel for the appellant Municipality would submit that under Rule 45A of the Tamil Nadu Pension Rules, 1978, if the gratuity is withheld on account of disciplinary proceedings pending against an employee, no interest could payable on the gratuity amounts.

4. We do not think that Rule 45A could be applied since there was no order withholding gratuity as required under Rule 9 of the Tamil Nadu Pension Rules, 1978. We find that there was criminal negligence on the part of the authorities in keeping a disciplinary proceedings pending for 23 years. Gratuity is payable to an employee even if he is dismissed from service. Therefore, in the absence of any order withholding the gratuity, non-payment of gratuity for 20 years after retirement, cannot be accepted by this Court. The Writ Court has rightly allowed the writ petition directing payment of interest for the belated payment. We see no merit in this writ appeal.



W.A.(MD)No.229 of 2023

5. Hence, this Writ Appeal is dismissed. No costs. Consequently,

connected miscellaneous petition is also dismissed.

[R.S.M.,J] (L.V.G.,J)
06.03.2023

skn

NCC : Yes/No

Index : Yes / No

Internet : Yes / No

To

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