



W.P.(MD).No.16162 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16162 of 2019

T.Subbaiyan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Environment and Forest,
Fort St.George,
Chennai – 600 006.

2.The Principal Chief Conservator of Forest,
Panagal Maaligai,
Saidapet,
Chennai – 600 015.

3.The Accountant General,
Office of the Accountant General,
261, Annasalai, Chennai – 600 018.

4.The District Forest Officer,
Thanjavur Division,
Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to sanction and disburse forthwith the interest amount admissible to the petitioner on his retirement benefits and its arrears at the rate of 12%.



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For Petitioner : Mr.T.Cibi Chakraborty

For R-1, R-2
and R-4 : Mr.S.Shanmugavel,
Additional Government Pleader.

For R-3 : Mr.P.Gunasekaran,
Additional Central Government
Standing Counsel.

ORDER

This Writ Petition is filed for Mandamus, directing the respondents herein to sanction and disburse forthwith the interest amount admissible to the petitioner on his retirement benefits and its arrears at the rate of 12%.

2. The petitioner had served in the respondent Department and the petitioner was placed under suspension 28.06.2006, which is on the verge of his retirement. Then a charge memo dated 30.06.2006 was issued. The petitioner had attained superannuation on 30.06.2006. In the Tribunal, the disciplinary proceedings were initiated in Petition No.2/2006 dated 09.01.2007, wherein, he was found guilty. Thereafter, the second respondent vide proceedings dated 05.11.2007 communicated the enquiry report and directed to submit an explanation and the petitioner submitted explanation to the second respondent on 26.12.2007. After considering the explanation, the second respondent vide proceedings dated 17.02.2009 had held the petitioner is guilty of charges and

<https://www.mhc.in.gov.in/judis> imposed the punishment of compulsory retirement with effect from 28.06.2006,



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that is the day on which he was placed under suspension. But the respondents have not chosen to forward the pension proposal to the second respondent for disbursement of retirement benefits. In the meanwhile, the petitioner had preferred an appeal to the first respondent praying to set aside the impugned order of compulsory retirement and allow him to retire from service on superannuation. After 5 years, the respondents have passed an order in the appeal in G.O.(D)No.246 Environment and Forest (VI) Department dated 28.08.2014, whereby the punishment order dated 17.02.2009 was set aside and the petitioner was permitted to retire from service on superannuation with effect from 30.06.2006. Thereafter, the respondents issued the retirement benefits DCRG, Commutation value of pension etc., on 31.07.2015. Since the respondents have sanctioned belatedly, the petitioner is before this Court.

3. The respondents have filed a counter stating that the petitioner had faced serious charges and was imposed punishment of compulsory retirement. On appeal, he was exonerated and after appellate order, the pension papers of the petitioner were processed and he was disbursed the benefits. As far as the belated gratuity from 01.07.2006 to 31.07.2015, the petitioner has not putforth any evidence, to substantiate the claim of interest. The pension papers were processed as per law. Hence, the petitioner is not entitled to any interest.

Hence, the respondents prayed to dismiss this Writ Petition.



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4. Heard Mr.T.Cibi Chakraborty, learned counsel for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents 1,2 and 4 and Mr.P.Gunasekaran, learned Additional Central Government Standing Counsel, for the respondent no.3.

5. The learned Additional Government Pleader appearing for the respondents submitted that pending Writ Petition, the claim of the petitioner was considered and the interest to the tune of Rs.2,21,900/- was granted through G.O.(D)No.219 Environment and Forest (VI) Department dated 21.09.2022. Since already the plea of the petitioner was addressed and additional amount of interest was calculated and disbursed, therefore, the Writ Petition ought to be dismissed. If the petitioner is aggrieved, he has to challenge the aforesaid Government Order.

6. However, the learned counsel appearing for the petitioner submitted that he is entitled to interest from the date of superannuation until the date of disbursement and relied on the judgment rendered by learned Single Judge of this Court reported in *2011 Supreme (Mad) 2531*. In paragraph 18, wherein the Learned Single Judge had relied on a judgment rendered by the Hon'ble



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Supreme Court and held that pension is not bounty but it is the right of the Government servant and any delay in granting the pension or family pension will attract interest and the time schedule ought to be adhered to by the respondents. Even if the statute has not prescribed any interest, the respondents are bound to pay interest for belated payment.

7. The petitioner and also relied on the judgment rendered in the case of *K.Ramalingam Vs The Principal Secretary to Government, Rural Development and Panchayat Raj Department*, reported in 2019 2 WLR 86 in paragraph 15 which is extracted hereunder:

“15. It is clear principle of natural justice that the delinquent officer when placed under suspension is entitled to represent that the departmental proceedings should be concluded with reasonable diligence and within a reasonable period of time. If such a principle were not to be recognized, it would place the officers under disability and distress for indefinite duration. Further, there is no justification on the part of the respondents to delay the said proceedings for over 10 years. Therefore, following the decision of this Court reported in MANU/TN/2547/2011 [M. Velayutham Vs. Secretary to Government, Municipal Administration and Water Supply Department and Others], and taking note of the 13 years of protracted departmental enquiry, the Petitioner is entitled to interest at the rate of 10% per annum on the belated payment of (i) Encashment of Leave and (ii) Commutation value of pension as per the aforesaid G.Os. However, by virtue of Sub Rule (1) to Rule 45-A of the Tamil Nadu Pension Rules, the Petitioner's claim for interest for Death cum Retirement Gratuity is negated. Insofar as the encashment of leave and



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commutation of pension are concerned, there shall be a direction to the respondents to calculate the interest at the rate of 10% per annum as stated supra and disburse the same, within a period of three months from the date of receipt of a copy of this order”.

8. The facts of the present case is entirely different and therefore, the judgment cited supra is not applicable to the present case. In the present case, the petitioner has faced charges and he was imposed with the punishment of compulsory retirement on 17.02.2009 with effect from 28.06.2006. Thereafter the petitioner had filed an appeal and because of the pendency of appeal, the respondents did not process the application. As on the date of consideration from 17.02.2009, since there was litigation pending between the parties by way of appeal, the petitioner is not entitled to interest from the date of compulsory retirement till the date of completion of the appeal.

9. It is seen that the petitioner did not opt for payment of retirement benefits based on the punishment of compulsory retirement. Had the petitioner submitted an application to consider his claim de hors appeal on the basis of compulsory retirement, the respondents would have paid the same. The petitioner has not submitted any evidence to show that he demanded pension benefits de hors of the appeal. In such circumstances, the claim of the petitioner



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cannot be entertained. Moreover, the respondents had already paid Rs.2,21,900/- was granted through G.O.(D)No.219 Environment and Forest (VI) Department dated 21.09.2022 and the said amount is pending during the pendency of the writ petition. Hence the claim of the petitioner is already granted by the respondent.

10. Before parting this judgment, this Court is of the considered opinion that the Government ought to issue strict direction to the authorities to pay the terminal benefits, once the original authority has passed order in the disciplinary proceedings and the respondents shall not wait for the appellate authority's orders in the appeal. If there is any reversal order by the appellate authority, the pension order would be modified subsequently. This would be benefiting the Government from paying any interest, since there would not be any belated payment. Moreover, had the petitioner approached the respondents de hors the appeal to grant all the terminal benefits based on the compulsory retirement, then the respondents would have gained without paying any interest to the gratuity and they would have paid the entire amount within time. Therefore, the claim of the petitioner that he could not celebrate his daughter's marriage cannot be sustained. If the petitioner had acted smartly by claiming the undisputed amount, the petitioner would have received the amount without

any delay.



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11. With the above observation, this Writ Petition is disposed of. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of Environment and Forest,
Fort St.George,
Chennai – 600 006.
- 2.The Principal Chief Conservator of Forest,
Panagal Maaligai,
Saidapet,
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S.SRIMATHY, J.

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