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W.P.No.24037 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.24037 of 2011

P.Arumugam

...Petitioner

Vs.

1.Government of Tamil Nadu,
represented by Secretary to Government,
Rural Development Department,
Secretariat, Chennai 600 009.

2.The Secretary to Government,
Highway Department,
Secretariat, Chennai 600 009.

3.The Chief Engineer [General]
Highway Department, Chennai 600 005.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the order in Memo No.1448/Confidential -2/1993-93, dated 07.05.2010 of the 3rd respondent and to quash the same and to issue consequential directions to sanction and disburse interest at 18% per annum for belated disbursement of terminal benefits other than DCRG.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.D.Gopal
Government Advocate.

ORDER



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This Writ Petition has been filed to call for the records relating to the order in Memo No.1448/Confidential -2/1993-93, dated 07.05.2010 of the 3rd respondent and to quash the same and to issue consequential directions to sanction and disburse interest at 18% per annum for belated disbursement of terminal benefits other than DCRG.

2.The case of the petitioner is that he was working as Union Engineer in the Panchayat Union, Mohanur Namakkal District. He was placed under suspension by the District Collector, Tiruchirapalli, vide Pro.Rc.No.A1/842/93, dated 14.02.1993, on the ground that the enquiry into grave charges in respect of certain lapses is pending. Disciplinary proceeding was initiated against him on 30.03.1993. Petitioner filed O.A.No.5688 of 1993, on the file of the Tamil Nadu Administrative Tribunal, Chennai, against his suspension. The Tribunal revoked the suspension order by an order dated 25.04.1997. A charge memo was given to him in letter No.5828/E6/97-9, Rural Development Department, dated 29.06.1998, in supersession of the earlier charge memo. The third respondent by proceedings No.1448/Con.II/93-21, dated 29.06.1998, placed him under suspension. The second respondent by G.O.3[D]



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No.52, Highway Department, dated 30.06.1998, passed an order not permitting the petitioner to retire from service on 30.06.1996. Petitioner submitted an explanation dated 20.07.1998 requesting to drop the criminal proceedings and permit him to retire from service on 30.06.1998 A.N. Since no order was passed, he again submitted a representation on 29.11.1999. But no order was passed, therefore, he filed O.A.No.325 of 2000 to quash the charge memo dated 29.06.1998. The Tribunal by an order dated 01.08.2002 allowed the original application and ordered that the petitioner shall be deemed to have retired from service on 30.06.1998 without any condition and terminal benefits. The department was given liberty to proceed against the petitioner under pension rules.

3.The second respondent by G.O.[D] No.301, Highways [HR] Department, dated 27.12.2001, revoked the order of suspension and permitted the petitioner to retire from service on 30.06.1998. Later, the first respondent in G.O.[D] No.129, Rural Development [E6] Department, dated 04.03.2004, dropped the disciplinary proceedings against the petitioner. Petitioner made representation dated 05.04.2004, to disburse the pensionary and retirement benefits. Since that was not



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done, he was constrained to file W.P.No.34839 of 2005 seeking directions to the respondents. This Court passed an order on 28.10.2005, to implead the order dated 01.08.2002 in O.A.No.325 of 2000 within 18 weeks. Subsequently, petitioner was paid Rs.1,74,174/- towards DCRG. The interest for the belated disbursement of DCRG amounting to Rs.3,19,517/- for the period from 01.10.1998 to 30.11.2007 was sanctioned and disbursed on 23.06.2009. The petitioner was not paid the interest for the belated payments of the retirement and other benefits like leave encashment, arrears of leave salary, arrears of special grade scale of pay, arrears of pay on regularization of suspension period, commutation of pension, arrears of monthly pension for the period from 01.07.1998 to 30.11.2007, GPF, SPF. Petitioner made representation dated 09.07.2009, to the third respondent to sanction and disburse interest for the belated disbursement. Petitioner's representation was rejected by the third respondent on 07.05.2010. In the said circumstances, this writ petition is filed.

4.It is the submission of the learned counsel for the petitioner that once a disciplinary proceeding initiated against the petitioner was dropped and he was permitted to retire, it goes without saying that he is



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entitled for all the retirement and terminal benefits from the date of his retirement. If that is not paid on the date of his retirement, it is no doubt that he is entitled for interest and thus, he prayed for grant of interest.

5.In reply, the learned counsel for the respondents submitted that subsequent to the order passed by the Tamil Nadu Administrative Tribunal on 01.08.2002, in O.A.325 of 2000 and in pursuance of the said order, the disciplinary proceedings against the petitioner had been dropped. It is not as though petitioner was exonerated of the charges against him. Therefore, petitioner is not entitled for any interest for the belated payment. Only after the dropping of the disciplinary proceedings, petitioner was entitled for retirement and other terminal benefits. He had not right vested on him for claiming retirement and terminal benefits when the disciplinary proceeding was pending. Therefore, petitioner is not entitled for claiming interest for the belated payment of retirement and terminal benefits.

6.Considered the rival submissions and perused the records.



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7. From the facts narrated above, it is not in dispute that the petitioner was served with a charge memo and he challenged it by filing O.A.No.325 of 2000, on the file of the Tamil Nadu Administrative Tribunal. Pursuant to the order passed in O.A.No.325 of 2000, on 01.08.2002, the first respondent through proceedings in G.O.[D] No.129 Rural Development [E6] Department, dated 04.03.2004, dropped disciplinary proceeding against the petitioner. Petitioner was permitted to retire. Even otherwise, in O.A. No.325 of 2000, it was ordered that the petitioner shall be deemed to have retired from service on 30.06.1998 without any condition and terminal benefits. Department was given liberty to proceed against the petitioner under the pension rules. It is informed that the department has not chosen to proceed against the petitioner under the pension rules. Thus, as per the order passed in O.A. No.325 of 2000, petitioner is entitled for pensionary and terminal benefits with effect from 30.06.1998. The petitioner has produced the tabular column with regard to the amount due to him and disbursal of the amount. For better appreciation, it is extracted hereunder:

<i>S.No.</i>	<i>Particulars</i>	<i>Amount</i>	<i>Due on</i>	<i>Disbursed on</i>
1.	Leave Encashment	62,174	30.06.1998	19.12.2003



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S.No.	Particulars	Amount	Due on	Disbursed on
2.	Arrears of Leave Salary	48,454	30.06.1998	06.09.2007
3.	Arrears of Special Grade scale of pay	1,02,629	30.06.1998	22.06.2007
4.	Arrears of pay on regularization of suspension period from 18.02.1993 to 11.08.1994	49,764	30.06.1998	15.03.2007
5.	Commutation of Pension (15 years)	1,42,808	30.06.1998	14.12.2007
6.	Arrears of monthly pension for the period from 01.07.1998 to 30.11.2007	2,00,776	30.09.1998	14.12.2007
7.	General Provident Fund	1,01,692	30.06.1998	28.04.1999
8.	Special Provident Fund	70,573	30.06.1998	29.12.2003

8.It is seen from the said tabular column that petitioner was granted all his terminal benefits on different dates. His date of retirement was 30.06.1998. The aforesaid benefits had not been paid to him on 30.06.1998 or immediately thereafter within a reasonable time. Certainly there is a delay in paying his retirement and terminal benefits. Petitioner produced G.O.[D] No.79, Highway, dated 21.04.2005 passed in favour of Mr.S.A.Mohammed Khan, Junior Engineer, a similarly placed employee like the petitioner, to show that he was granted interest at 18% for the



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delayed payment. This G.O., reads that the said S.A.Mohammed Khan, Junior Engineer, shall be paid interest @ 18% for the belated payment of the earned leave etc.,

9. Withholding of the petitioner's pensionary and other benefits for long time, especially, after the disposal of O.A.No.325 of 2000 cannot be appreciated. It is no doubt that the petitioner is entitled for all the above benefits on the date of his retirement on 30.06.1998 and it also no doubt that he is entitled for reasonable interest for the belated payments. Taking all these factors into consideration, this Court directs the respondents to pay the petitioner interest @ 9% for the aforesaid payments from 30.06.1998 till the date of actual disbursement.

10. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition, if any, is also closed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No

12.03.2024

To:



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1. Government of Tamil Nadu,
represented by Secretary to Government,
Rural Development Department,
Secretariat, Chennai 600 009.

2. The Secretary to Government,
Highway Department,
Secretariat, Chennai 600 009.

3. The Chief Engineer [General]
Highway Department, Chennai 600 005.

G.CHANDRASEKHARAN, J.



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