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W.P.No.19684 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

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THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.19684 of 2015

K.M.Vijayakumar

... Petitioner

-VS-

The State of Tamil Nadu,
represented by its Secretary,
Education Department,
Fort.St.George,
Chennai – 600 009.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of declaration, declaring that calculating simple interest on DCRG at 12% simple interest in G.O.Ms. (2 டி) No.60, பள்ளிக் கல்வி (நு.வ.3 (1)த் துறை, dated 22.09.2014 is nullity and to direct the respondent to calculate the interest of 12% compounded annually as per G.O.Ms.No.122 Finance (Pension) Department dated 20.02.1995.



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For petitioner : Mr.A.R.Nixon
For respondent : Mrs.P.Rajarajeswari,
Government Advocate

ORDER

The petitioner, claiming to be the legal heir of one J.Emili Baby and P.T.Marshall, after having received the terminal benefits with simple interest, now seeks to have an additional benefit of compounded interest on the basis of G.O.Ms.No.122 Finance (Pension) Department dated 20.02.1995.

2. The petitioner would submit that he is the legal heir of the aforesaid persons. However, his relationship to these persons has not been set out. The petitioner would submit that late J.Emili Baby had retired from service on 13.10.1989 from St.Joseph's Elementary School, Manalikai, Thakkalai, Kanniyakumari District, as Secondary Grade Teacher. She had filed a writ petition in



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W.P.No.4340 of 1990 challenging her premature superannuation at the age of 58 instead of 60. This writ petition was disposed of directing the respondents to work out the pension and disburse the maximum pension to the petitioner viz., J.Emili Baby within a specified period. Since the respondents' Department had failed to implement the above order and J.Emili Baby had died on 16.07.2003, her husband viz., P.T.Marshall applied for family pension and other benefits due to his wife.

3. Once again, since the request was not considered, he had filed a writ petition in W.P.No.2095 of 2006, despite which, the Department had failed to pay the pensionary benefits. P.T.Marshall died on 13.12.2006, during the pendency of the writ petition and the petitioner herein had been substituted as his legal heir. Thereafter, this Court, by an order dated 02.02.2010 had observed as follows:

“8.In view of the fact that Emili Baby died already and her husband P.T.Marshall has also passed away after filing of the writ



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petition, the respondents 2, 5 and 6 are directed to coordinate among themselves and ensure that the arrears of pension, family pension as well as arrears of salary are paid to the legal heir as stated above without giving any room for further litigation, preferably within a period of three months from the date of receipt of a copy of this order.”

4. However, a perusal of the above order in W.P.No.2095 of 2006 would indicate that the petitioner claims to be nephew of P.T.Marshall. Even then, the respondents have treated the orders of this Court with utter contempt and had not implemented the same. Therefore, the petitioner had filed a contempt petition in Cont.P.No.1703 of 2012 and thereafter, the arrear amounts have been paid to him. The petitioner who had claimed interest at 12% in the earlier writ petition would now submit that pensionary benefits



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has been calculated without considering G.O.Ms.No.122, *supra*, and would contend that interest should be paid as per G.O.Ms.No.122, *supra*. Since it was not paid, the petitioner had come forward with this petition.

5. The sole respondent has filed a counter affidavit *inter alia* contending that this Court, by its order dated 03.07.2014 in Cont.P.No.1015 of 2014, had directed the respondents to pay the arrears of pension with 12% interest per annum from 31.10.1989 and till the date of payment and the direction was issued to the respondents to work out the pension and terminal benefits along with 12% interest as directed by this Court in the order dated 10.03.1997 in W.P.No.4340 of 1990. Accordingly, the respondents had also calculated the same as directed and paid a sum of Rs.18,92,925/- to the petitioner. After receiving the same, the petitioner now seeks to get a further benefit by relying upon G.O.Ms.No.122, *supra*. Though this Government Order has been



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promulgated in the year 1995, the petitioner had chosen to seek interest at 12% per annum.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The writ petition has been filed claiming terminal benefits of J.Emili Baby who had died on 16.07.2003 and on 13.12.2006, her husband had passed away. Having sought for the interest at 12% per annum and having received the same, the petitioner had, after so many years, come forward with the relief seeking interest on par with the guidelines laid down in G.O.Ms.No.122, *supra*.

8. The petitioner, whose entitlement itself is questionable as he had not established his entitlement in the manner known to law, had already received a sum of Rs.18,92,925/- and now, after



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such a huge delay, seeks to get further benefits. The writ petition is clearly hit by laches.

Therefore, the writ petition stands dismissed. No costs.

15.07.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

The Secretary,
The State of Tamil Nadu,
Education Department,
Fort.St.George,
Chennai – 600 009.



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P.T.ASHA, J.,

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