



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

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

Cont.P.No.1354 of 2024

Dr.D.Adiroubane

... Petitioner

Vs.

- 1.Shri. Ajay K Bhalla,
Secretary to Government,
Ministry of Home Affairs, New Delhi.
- 2.Shri.Jayant Kumar Ray,
The Secretary to Government (Agriculture),
Government of Union Territory of Puducherry,
Puducherry.
- 3.Dr.Sharat Chauhan,
Chief Secretary Cum Chairman,
Pandit Jawaharlal Nehru College of Agriculture (Karaikal), Society,
Chief Secretariat,
Puducherry.
- 4.Dr.A.Pouchepparadjou,
The Dean,
Pandit Jawaharlal Nehru College of Agriculture & Research Institute,
Serumavilangai, Nedungadu Post,
Karaikal – 609 603.



5. Tmt. S. Prabavady,
Director of Accounts and Treasuries,
Government of Union Territory of Puducherry,
Puducherry.

6. Mr. Sundarajan. P
The Under Secretary to Government,
Agriculture Department,
Government of Union Territory of Puducherry,
Puducherry.

7. Dr. S. Vasanthakumar,
Director of Agriculture,
Government of Union Territory of Puducherry,
Puducherry.

8. Shri. V. Srinivas,
Secretary to Government,
Department of Pension & Pensioner's Welfare,
New Delhi.

9. Shri. R. Kesavan,
The Secretary to Government,
Department of Personnel and Administrative Reforms,
Government of Union Territory of Puducherry,
Puducherry.

... Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of the Courts Act, 1971 praying to punish the respondents for willfully and wantonly violating the order of this Court in W.P.No.33325 of 2012 dated 22.11.2018 insofar as it pertains to payments other than pension along with interest @ 12% p.a.



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For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.R.Syed Mustafa,
Spl. Government Pleader,
Puducherry.

ORDER

The petitioner was the writ petitioner in W.P.No.33325 of 2012 which came up for consideration and order were pronounced on 22.01.2018. The writ petition had been filed in the nature of Certiorari Mandamus calling for records of the 4th respondent, the Dean, Pandit Jawaharlal Nehru College of Agriculture and Research Institute, (PAJANCOA & RI), Serumavilangai, Nedungadu Post, Karaikal, relating to the impugned orders dated 13.09.2012 bearing Ref.No.3478/PJN/E1/DA/2012, dated 28.05.2012 bearing Ref.No.6766/PJN/Estt/E1/2012-13, dated 10.09.2012 bearing Ref.No.6176/PJN/Estt/E1/2012-12, and also the order of the 6th respondent, the Under Secretary to Government, Agriculture Department, Government of Union Territory of Puducherry, dated 14.02.2012 and quash the same and consequently direct the respondents to disburse the retirement benefits due to the petitioner including death cum retirement,



Gratuity, Pension, Earned Leave encashment, Insurance scheme maturity amounts together with interest of 18% per annum with the effect from 01.09.2012, till date of disbursement.

2. After considering the argument advanced by the learned counsel for the petitioner and the learned counsel for the respondents, it had been held as follows:

“31. In light of the above facts, I hold that the respondents have deliberately, without any acceptable reason, withheld the Retirement benefits payable to the petitioner on his superannuation. It is seen that the 4th respondent had also not forwarded the DCRG proposal to the Government. This had been revealed in the reply under Right to Information Act received by the petitioner on 29.10.2012. I have no other option, but to allow the writ petition. The respondents are directed to disburse the dues to the petitioner within a period of 4 weeks from this date together with interest @ 12% per annum.



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32. *The Writ Petition is allowed, with costs of Rs.50,000/- payable to the petitioner by the 9th respondent, the Secretary to Government who has an overall direct responsibility towards every public servant who serves the Puducherry Government to ensure that there is settlement and disbursement of pension and gratuity without any culpable delay. Unfortunately, the 9th respondent had failed to discharge that duty at least in so far as the petitioner is concerned.”*

3.This order had been taken up in the appeal by the respondents before the Division Bench. The Division Bench had modified the order of this Court and had finally ordered as follows:

“21. The counter affidavits filed as pointed out by the Writ Court have not reflected the correct position and even the communications have sent wrong signals at various points of time. We find total carelessness and negligence on the part of the Government of Puducherry and its officials in



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handling the situation. We are now informed that the other benefits, viz. the Provident Fund, the Gratuity and the Leave Encashment have been paid over to the first respondent. Therefore, the question that remains is whether the direction of the Writ Court to pay pension should be sustained are not. As already pointed out the Hon'ble Supreme Court has held that the employees of Autonomous Bodies which do not have a pension scheme cannot be paid pension. Therefore, we find ourselves unable to confirm the direction of the Writ Court for payment of pension treating the first respondent as a Government employee. We are therefore constrained to set aside the direction of the Writ Court with reference to payment of pension alone. As regards the payment of other benefits, the direction granted by the Writ Court will stand, the cost imposed by the Writ Court is also sustained.

23. The said pension ought to have been paid to him from at least on the date on which he exercised his option namely at least the date on which he was absorbed as a permanent employee of the second appellant Institute. There



has been considerable delay in payment of the pension.

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Pension is an entitlement of a Government servant any delay in payment of such pension should be compensated by payment of interest. We therefore conclude that the Government of Puducherry shall calculate the pension payable to the first respondent on the basis of his last drawn salary as an employee of the Department of Agriculture of the Government of Puducherry and pay the same from the date on which he was absorbed into the services of the second appellant Institute.

24. The Pro-rata monthly pension shall be determined and the same shall be paid with interest at 6% per annum from the date on which such monthly pension fell due till actual payment. We find that the absorption has been confirmed on 20.03.1994 with effect from 05.11.1990. Therefore, the first respondent would be deemed to have been in the services of the Government of Puducherry till 04.11.1990. Therefore, he would be entitled to pension from the month of December 1990 payable from the month of



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January 1991. The Government of Puducherry shall calculate the pension payable to the first respondent as on 04.11.1990 and pay the same month on month with interest at 6% from the date on which such pension fell due till date of payment. We are imposing the burden of payment of interest on the pension as we find that the first respondent has been unjustly denied the benefit of pension because of the carelessness and negligence on the part of the Authorities in handling the issue.

25. The Writ Appeal is disposed of on the above terms. Since we have sustained the imposition of costs of Rs.50,000/- by the Writ Court, we direct the parties to bear their own costs in the Writ Appeal. Consequently, the connected miscellaneous petition is closed.”

4. Thereafter, there are communications which indicate that the respondents had been calling up the petitioner to appear before them to disburse the amount which are payable and due by them to the petitioner. But unfortunately, the petitioner had not responded stating that he was



not satisfied with the order of the Division Bench and that he wants to prefer an appeal before the Hon'ble Supreme Court. Accordingly, he had also filed SLP (C) No.16174 / 2023 in which notice had been issued.

5.The learned counsel for the petitioner stated that notice had been issued only with respect to the interest component and therefore, with respect to the other aspects, this Contempt Petition would lie, but interest is calculated on a principal amount.

6.Both the principal and the interest would go hand in hand together. Let the issues be finally settled by the Hon'ble Supreme Court, which will give a quietus to the claim of the petitioner herein.

7.Additionally, it is also informed by the learned Special Government Pleader on behalf of the respondents that the matter had been listed before the Lok Adalat by the Hon'ble Supreme Court, but the petitioner had not been participating the same, holding that he is in Canada.



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8.When the Hon'ble Supreme Court had opened its door for alternate dispute resolution and for settlement of the issues which are pending before it, a duty is cast on the petitioner to participate in such procedure. Let all the issues be therefore decided by the Hon'ble Supreme Court.

9.At this stage, I am not inclined to keep this petition any further on the board of this Court and accordingly, this Contempt Petition stands dismissed. After the orders of the Hon'ble Supreme Court is passed, the petitioner may file appropriate petition as he is so advised.

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Index: Yes/No

Internet: Yes/No

Speaking/Non Speaking

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