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Writ Petition No.38160 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

CORAM

THE HON'BLE DR. JUSTICE D.NAGARJUN

Writ Petition No.38160 of 2016

and

W.M.P.No.30298 of 2018

N.Thiagarajan

...Petitioner

Versus

1.State of Tamil Nadu,
Rep.by its Secretary to Government,
Municipal Administration and
Supply Department
Fort St. George, Chennai – 600 009.

2.The Commissioner
Coimbatore Municipal Corporation,
Coimbatore.

...Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Mandamus to direct the respondents to pay interest on belated payment of terminal benefits:

Head of Terminal Benefits	Amount Paid	Payable on	Paid on
Arrears of Salary	Rs.1,09,525/-	From 01.06.1988 to 30.04.2005	14.07.2015
Dearness Allowance	Rs.99,451/-	01.05.2005 to 31.07.2016	01.08.2016
Difference of DCRG	Rs.28,199/-	01.05.2005	01.08.2016
Difference of Communication	Rs.24,602/-	01.05.2005	01.08.2016



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Head of Terminal Benefits	Amount Paid	Payable on	Paid on
Difference of Pension	Rs.1,41,663/-	01.05.2005	01.08.2016

based on the representation of the petitioner dated 17.09.2016.

For Petitioner : Mr.A.R.Nixon
For Respondents : Mr.S.Rajesh
Government Advocate – R1.
: Mr.K.Magesh – R2.

ORDER

This writ petition is filed seeking for writ of Mandamus directing respondents to pay interest on belated payment of terminal benefits:

Head of Terminal Benefits	Amount Paid	Payable on	Paid on
Arrears of Salary	Rs.1,09,525/-	From 01.06.1988 to 30.04.2005	14.07.2015
Dearness Allowance	Rs.99,451/-	01.05.2005 to 31.07.2016	01.08.2016
Difference of DCRG	Rs.28,199/-	01.05.2005	01.08.2016
Difference of Communication	Rs.24,602/-	01.05.2005	01.08.2016
Difference of Pension	Rs.1,41,663/-	01.05.2005	01.08.2016

based on the representation of the petitioner dated 17.09.2016.

2. According to Mr.A.R.Nixon, learned counsel for the petitioner, the petitioner was initially appointed as Junior Assistant in Dharmapuram Municipality on temporary basis from 20.11.1968 to 07.07.1977, thereafter his services were regularized and appointed as regular Junior Assistant and his promotion was also declared.



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3. Learned counsel for the petitioner further submitted that the petitioner has requested the respondent to regularize his services from temporary basis from the date of his initial appointment i.e, 20.11.1968. The request of the petitioner was rejected by the Government order dated 29.10.1996. The petitioner filed W.P.No.11642 of 1997 which was allowed vide order dated 20.12.1999 by this Hon'ble Court. The Government has complied with the directions of this Court by issuing G.O.Ms.No.181, Municipal Administration and Water Supply Department, dated 16.05.2002. Thereby the monetary benefits of the petitioner were paid by taking into account the length of service from date of appointment i.e., 20.11.1968.

4. The petitioner has submitted one more representation to consider the promotion basing on his request dated 20.11.1968. The said request was rejected vide order dated 12.05.2010. Then the petitioner filed W.P.No.19038 of 2010 questioning the said proceedings, the said petition was allowed with the following direction:

“In the result, the writ petition is allowed. The impugned order is set aside and the matter is remanded to the third respondent for the purpose of granting notional



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promotion to the petitioner on par with his junior, by taking into consideration the date of his first appointment as Junior Assistant on 20.11.1968 as expeditiously as possible. No costs.”

5. In obedience of the order, the Coimbatore Corporation has passed proceedings in Na.Ka.No.752/2007 dated 14.07.2015 and the promotion was given. The difference of pay was re-fixed on 14.07.2015 and Government issued a G.O(2D).No.1, Municipal Administration and Water Supply (MC IV) Department dated 06.01.2015 confirming the same. Now the petitioner submits that on account of delay in making payments, the interest has to be paid from the date of his initial appointment as a temporary Assistant, until the payment was paid.

6. Learned counsel for the respondents submits that the petitioner is not entitled for any relief of payment of interest from the date of appointment as the services were regularized and promotion was given basing on High Court directions in writ petition Nos.11642 of 1997 and 19038 of 2010.



7. Learned counsel for the petitioner relied on further judgments

which are as follows:

(i). **Dr.S.Loganathan Vs. Tamil Nadu Agricultural University, Coimbatore and Ors.** 2012 STPL 936 Madras.

(ii). **Commissioner for Milk Production and Dairy and Ors. Vs. S.Venkatachalam and Ors.** 2019 STPL 9726 Madras.

(iii). **S.K.Dua Vs. State of Haryana and Anr.** 2008 3 SCC 44.

(iv). **Principal Secretary to Government, Rural Development and Panchayat Raj Development Vs. R.Krishnasamy** 2022 STPL 2384 Madras.

8. Even if the dates of the passing of the orders in the relevant writ petitions taken into consideration still there is a delay in payment of arrears to the petitioner, considering the submissions of either sides, the petitioner is entitled for the belated payments. The petition stands partly allowed directing the respondents to pay interest of Rs.1,09,525/- from 12.04.2013 to 14.07.2015 and in respect of Dearness Allowance and difference of DCRG, difference of commutation amount and difference of pension, the petitioner is entitled for interest with effect from 12.04.2013 to 01.08.2016. Accordingly, the 2nd respondent is directed to pay interest



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as mentioned above as quickly as possible but not less than six (6) weeks
from the date of receipt of copy of this order.

9. With above observations and directions, this writ petition stands partly allowed. There shall be no order as to costs. Connected WMP is closed.

15.03.2024

Speaking Order : Yes/No
Index Case : Yes/No
Neutral Citation : Yes/No

nst

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DR.D.NAGARJUN , J.

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