



W.P.No.21001 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.21001 of 2014

and

M.P.Nos.1 & 2 of 2014

A.R.V.Kalidoss

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by Secretary, Health & Family Welfare Department,
Fort St. George, Chennai-9.

2.The Director of Public Health &
Preventive Medicine, Chennai-6.

3.The Deputy Director of Health Services,
Cheyyar, Thiruvannamalai District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus Calling for the records relating to the order of the 2nd respondent in Mu.Mu.No. 86590/PNo.1/ Iru4/2013 dated 21.10.2013 and quash the same and consequently direct the respondents to pay and disburse the



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sum of Rs.10,01,599/- (as on 31.08.2010) and further interest amount to be calculated till actual payment towards arrears of interest payable to the deceased Government servant K.Velusamy, the petitioner father for delay in paying the actual retirement benefits and the interest payable for further delay in paying the arrears of interest.

For Petitioner : M/s.V.Porkodi

For Respondents :
(for R1to R3) : M/s.E.Sundaram, Govt. Advocate

ORDER

The above writ petition has been filed to call for the records relating to the order of the 2nd respondent in Mu.Mu.No.86590/PNo.1/ Iru4/2013 dated 21.10.2013 and quash the same and consequently direct the respondents to pay and disburse the sum of Rs.10,01,599/- (as on 31.08.2010) and further interest amount to be calculated till actual payment towards arrears of interest payable to the deceased Government servant K.Velusamy, the petitioner's father for delay in paying the actual retirement benefits and the interest payable for further delay in paying the arrears of



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interest.

2. The facts which have culminated in the filing of the above writ petition are herein below set out.

2.1. It is the case of the petitioner that his father late K.Velusamy was working as a Selection Grade Health Inspector in the office of the 3rd respondent and while working so he has been placed under suspension on 19.06.1982. Thereafter, a charge memo was issued and disciplinary proceedings were initiated and ultimately some of the charges were held proved by the report dated 23.08.1982. Challenging the said order, the petitioner's father had moved an appeal in O.A.No.2082 of 1989 before the Tamil Nadu Administrative Tribunal and by order dated 13.12.1991, the Tribunal had allowed the above OA and set aside the punishment. Thereafter, the petitioner's father was permitted to retire from service on 30.06.1982.



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2.2. Since the period of suspension from 19.06.1982 to 30.06.1982 was not regularized, his pensionary benefits were not settled. Once again the petitioner's father had approached the Tamil Nadu Administrative Tribunal by filing O.A.No.6098 of 1993 and by order dated, 09.07.1996 directions were issued to regularize the period of suspension as duty and to sanction and disburse the pensionary benefit within 6 months together with interest.

2.3. Thereafter, the 1st respondent by G.O.(D).No.1226 dated 24.09.1997 had implemented the order passed in O.A.Nos.2082 of 1989 and 6098 of 1993. Though the pensionary benefits were paid by the respondents, however interest thereon for the delayed payment was not paid despite the direction of the Tribunal. Therefore, the petitioner's father had filed a contempt petition in C.A.No.167 of 2003 in O.A.No.6098 of 1993 before the Tribunal. The Tribunal had directed the respondents to calculate the interest at 9% per annum for



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the delayed period and disburse the same within a period of 3 months. Despite such a speaking order, the respondents had failed to comply with the order in its letter and spirit.

2.4. Meanwhile, the 3rd respondent had instructed the petitioner's father by his letter dated 22.03.2005 to furnish the monthly break-up details of his pension which he had received from 01.07.1982 to the date of the letter and also to furnish separate break-up details for the amounts of Rs.1,82,693/- received by him on 15.09.1998. These details were furnished to the 3rd respondent on 15.04.2005. Despite which the respondents had not come forward to implement the order. Meanwhile, the Tamil Nadu Administrative Tribunal was abolished and the petitioner's father had also passed away on 19.09.2007.

2.5. The petitioner's mother had made a representation dated 20.10.2007 requesting the respondents to disburse the benefits that



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were payable to the deceased K.Velusamy. Thereafter, she had also died on 27.02.2008. In these circumstances, the son of the deceased parents had filed W.P.No.26830 of 2008 for a mandamus directing the respondents to implement the order dated 17.11.2003 made in C.A.No.167 of 2003 in O.A.No.6098 of 1993 and disburse the interest amount as ordered therein to the petitioner forthwith, with enhanced interest on the further delay caused after the said judgement. This Court by order dated 03.10.2012 was pleased to direct the 3rd respondent to pay proportionate interest to the respective legal heirs of the deceased.

2.6. Thereafter, the impugned order was passed directing interest to be paid to the terminal benefits amounting to a sum of Rs.1,64,703/- for the period 01.07.1982 to 09.07.1996 only after obtaining the indemnity bond from the legal representatives of the deceased K.Velusamy. The petitioner would submit that the interest was payable from the date when the amounts were fell due till the



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date of payment and nearly a sum of Rs.10,01,599/- is payable.

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Therefore, he has come forward with the writ in question.

3. The 3rd respondent has filed a counter affidavit contending that though the Tribunal had directed the respondents to pay interest, the interest was payable only on the Death Cum Retirement Gratuity (DCRG) and not for the other terminal benefits. The respondents would submit that, except for DCRG, the existing Government Rule does not provide for interest on other terminal benefits, and that the order directing payment of 9% interest was incorrect. That apart, they would also contend that intimation about the death of K.Velusamy was also not brought to the notice of the respondents and without knowing the fact of death, the Government had issued orders sanctioning amounts to deceased K.Velusamy on 17.01.2009. It is also stated that when the indemnity bonds were demanded the same has not been given. Thereafter, the respondents have disbursed interest amount to three legal heirs of K.Velusamy who had



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submitted their indemnity bonds, namely, the 3 daughters V.Mansasidevi, V.Thembavani and V.Susilala on 07.05.2012.

4. They would also come forward with a defense that since the order had been passed by the Tamil Nadu Administrative Tribunal on 09.07.1996, the petitioner was entitled to interest only from 01.07.1982 to 09.07.1996. Therefore, it is the contention of the respondents that interest is payable only on DCRG and not on the other terminal benefits and they are entitled to pay interest only till 09.07.1996.

5. Heard the counsels on either side.

6. A perusal of the order passed in C.A.No.167 of 2003 in O.A.No.6098 of 1993 would indicate that the Tribunal had passed the following orders:-

“By the order dated 9.7.1996, this Tribunal has



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directed the respondent to treat the period of suspension as duty period and to pay all the other terminal benefits and pension etc., declaring that the applicant is deemed to have retired on attaining the age of superannuation and further directing payment of all terminal benefits with interest according to rules. It seems all the terminal benefits have been disbursed to the applicant. But interest for the delayed payment has not been paid to him. The applicant therefore is entitled to interest for the delayed payment for the delayed period. Therefore a direction is given to the respondents to calculate the interest at 9% per annum for the delayed period and pay to the applicant. The amount shall be disbursed to the applicant within a period of three months. The contempt application is ordered to be closed.”



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7. Since the amounts have not been paid, a contempt notice dated 17.12.2004 was issued which was followed by a letter dated 15.04.2005 to late Velusamy. Thereafter the petitioner's father Velusamy had passed away leaving behind him surviving his wife, 4 daughters and a son who is the petitioner herein. The petitioner's mother had also passed away on 27.02.2008.

8. From the records, it is further seen that post the death of said Velusamy by order dated 11.08.2010, the 2nd respondent had passed an order stating that the amounts of Rs.1,64,703/- which was sanctioned could be disbursed equally to all his legal heirs on their submitting an indemnity bond. The same was communicated to the petitioner by the 3rd respondent. This was followed by another letter dated 20.10.2010 from the 3rd respondent directing the petitioner and his siblings to furnish the indemnity bonds. It is also seen that the petitioner had earlier filed W.P.No.26830 of 2008 for a mandamus directing the respondents to implement the order in CA.No.167 of



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2003 in O.A.No.6098 of 1993 and disburse the interest amount that had accrued therein to the petitioner with enhanced interest on the delayed payment. This Court by order dated 03.10.2012 was pleased to dispose of the writ petition with the following observations:-

“Since the petitioner is agreeable to execute an indemnity bond, he is given one month time to execute the bond and produce the same before the 34 respondent. In case the sister of the petitioner by name V.Malliga is refusing to execute the bond, it is open to the 3rd respondent to pay proportionate amount to the petitioner. In short, the 3x4 respondent need not wait till the execution of indemnity bond by the other legal representative and it is open to him to apportion the amount among the 5 legal heirs and pay the share of the petitioner separately to him. Such exercise shall be completed within a period of one month from the date of receipt of indemnity bond from the petitioner”



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9. The petitioner has also submitted his indemnity bond on 28.12.2012 despite which to date amounts have not been paid. The direction to pay the interest has not been challenged by the respondents. Therefore, they are duty bound to pay the interest as directed. Though the terminal benefits have been disbursed on various dates in the year 1998, however, the interest has not been calculated properly. The impugned order would clearly show that interest has been calculated only up to the year 1996 and not up to the date of payment. When the orders passed by the Tribunal and this Court clearly spell out that the petitioner is entitled to the interest till the date of payment, the respondents cannot without challenging the order turn around and say that they are not entitled to pay interest.

10. Accordingly, the Writ Petition is allowed as prayed for. However, interest will not be paid for the period 20.10.2010 to 23.10.2012 which is the time taken by the petitioner to submit the indemnity bond. No costs. Consequently, the connected Miscellaneous Petitions are closed.



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Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

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