



W.A.No.1032 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.566 of 2021
and C.M.P.No.2342 of 2021**

1.The Secretary to Government
Health and Family Welfare Department
Fort St.George, Chennai-9.

2.The Director of Medical and Rural Health
Services, Chennai-6.

... Appellants

-Vs-

Dr.K.Vijayalakshmi
Joint Director of Medical and Rural
Health Services (Retd), Periyakulam
Theni District.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order dated 20.09.2017 in Review Application No.2 of 2015 in W.P.No.30196 of 2013.

For Appellants : Ms.M.Sneha
Senior Panel Counsel for Health
and Family Welfare Department

For Respondent : Ms.G.Sridevi



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J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

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This appeal has been directed against the order passed by the writ Court dated 20.09.2017 made in Review Application No.2 of 2015 in W.P.No.30196 of 2013.

2. The respondent herein had been working as Joint Director of Medical and Rural Health Services and had reached superannuation. She was not permitted to retire and her service was retained for the purpose of taking disciplinary action against her. Therefore, after her superannuation she was paid only provisional pension. Subsequently, the Government has dropped the departmental proceedings. Therefore, she became qualified to retire by getting her Death-cum-Retirement benefits and other pensionary benefits.

3. The provisional pension that was paid was Rs.8,510/- per month. The actual pension after commutation of pension should have been paid at Rs.8,650/- per month. This difference amount alone had been paid belatedly and moreover, since it is arising out of commutation of pension, it would not carry any interest. Therefore, the interest awarded by the writ Court is infirm according to the appellants and hence they filed the present appeal against the order passed by the writ Court dated 20.09.2017.



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4. Heard Ms.M.Sneha, learned Senior Panel Counsel appearing for the appellants and Ms.G.Sridevi, learned counsel for the respondent.

5. In fact, the impugned order itself is in the Review Application filed by the State, where the rate of interest of 12% which was allowed by the writ Court was questioned. The learned Judge disposed the said writ petition passed the following order:

" 5. As far as commutation of pension is concerned, the rate of interest shall remain as 12% per annum, for the belated payment while for PF and other statutory benefits, it shall be 8% per annum. Therefore, the review applicants are directed to determine the interest payable on the belated payment of aforesaid amounts, at the rate, as specified above and pay the same to the respondent within a period of eight weeks from the date of receipt of a copy of this order."

6. Therefore, insofar as the commutation of pension is concerned, the rate of interest fixed at 12% was confirmed and for the belated payment of the other dues like Provident Fund and other statutory dues, the rate of interest was reduced to 8%. Therefore, to that extent, the plea raised by the review applicants / appellants



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herein in fact was accepted and allowed by the learned Judge. Therefore, the appellants could not have any grievance.

7. Nevertheless, the appellant State has filed this appeal on the ground that the Writ Court has confirmed in the Review Application to pay interest at 8% and 12% as the case may be for the delay in payment of Death-cum-Retirement benefits, pension and commutation of pension. That kind of direction given to the State to pay interest cannot be countenanced.

8. In this regard, even though attempt has been made by Ms.M.Sneha, learned counsel for the appellant Department to make a successful challenge to the order passed by the writ Court in the Review Application, we are not impressed with the same because, insofar as the belated payment of pension is concerned including the commutation of pension, certainly the retired employee is entitled to the interest. In most of the cases the interest has been fixed at 12% which is a very optimum level of interest. In some cases, statutorily what was the interest that has been fixed under the Statute was to be fixed and therefore, the interest allowed by the Statute alone can be fixed. Therefore, considering all these aspects only the learned Judge has fixed the interest at 12% and 8% respectively. The same cannot be questioned by the appellants without any plausible reason.



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9. Moreover, these kind of issues have already been considered by earlier Division Benches of this Court in number of cases, which have been cited by the learned counsel appearing for the respondent. The first judgment is the judgment of a Division Bench of this Court in **The Commissioner, Corporation of Chennai and another -Vs- E.Manickam in W.A.No.1272 of 2017 dated 20.10.2017.** The next judgment is in **Secretary to Government, Health and Family Welfare Department and another -Vs- Dr.S.Narayanaswamy made in W.A.No.867 of 2017 dated 30.08.2017.**

10. The aforesaid judgments since have been relied upon by the learned counsel for the respondent, where the principle of allowing interest for the belated payment of retirement benefits like Death-cum-Retirement benefits, pension and commutation of pension since have been allowed invariably in those cases, the very same logic can be applied to the present case also, which in fact has been applied by the learned Judge in the order passed by the writ Court.

11. When the Review Application has been filed, that was also considered and insofar as interest for the statutory benefits and Provident Fund it has been reduced to 8%. Therefore, since only nominal rate of interest has been fixed by the writ Court, of course following the settled proposition in this regard, the appellants cannot have any grievance against the said order.



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12. Therefore, we feel that this writ appeal is liable to dismissed. Accordingly it is dismissed. The order of the writ Court made through the impugned order shall be complied with by the appellants within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

(R.S.K.,J.) (K.B.,J.)
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