IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **: 26.06.2024**

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.3045 of 2021

K.Subramaniyan ... Appellant

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

3. The Executive Engineer,
RWS Division,
Tamil Nadu Water Supply and Drainage Board,
Ganapathy Nagar,
Thanjavur. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 05.07.2021 passed in W.P.No.26701 of 2017.

For Appellant : Mr.K.Srinivasamurthy
for M/s.Row and Reddy

For R1 : Mr.T.Chandrasekaran
Special Government Pleader

For R2 & R3 : Mrs.S.Shahila Bhanu
Standing Counsel

JUDGMENT

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ petitioner is the appellant before us. The order passed by the Managing Director, Tamil Nadu Water Supply and Drainage Board in proceedings dated 19.12.2016, rejecting the claim of the appellant to grant interest for the belated settlement of retirement benefit was challenged in the writ proceedings.

2. Admittedly, there was an Audit Objection raised regarding the fixation of pay of the appellant. During the pendency of the Audit Objection, the appellant filed two writ petitions in W.P.No.4174 of 2011 and W.P.(MD)No.6851 of 2012. During the pendency of these two writ petitions and the Audit Objections, the respondents could not able to settle the retirement benefits of the appellant. After disposal of the writ petitions and

dropping of the Audit Objections, all benefits due to the appellant were settled.

3. Mr.K.Srinivasamurthy, learned Counsel appearing on behalf of the appellant would submit that even during the pendency of the writ petitions by withholding the disputed amount, the respondents ought to have settled the balance amount due to the appellant. Since they have not done so, the interest is to be calculated for the said amount and to be disbursed in favour of the appellant.

4. We are unable to agree with the said contention, since the disputed amount itself has not been determined during the relevant point of time. The eligibility of the appellant for settlement of terminal benefits was not decided, on account of the Audit Objections and due to pendency of two writ petitions. Even the interest cannot be calculated as contended by Mr.K.Srinivasamurthy, since the amount disputed were not arrived on account of pendency of Audit Objections and two writ petitions filed by the appellant.

5. The learned Single Judge elaborately considered these facts in

para nos.10 and 11 of the writ order impugned, which reads as under:

> *"10. In this background, after the final orders had passed in W.P.(MD)No.6851 of 2012 on 17.06.2015, the Audit Officer had by his lester dated 03.08.2010, had remarked that "para is treated as settled". Consequently, the petitioner's sanction was approved on 18.08.2015 and 03.11.2015 and the revised pension was sanctioned on 09.06.2016. I do not find any inordinate delay between 17.06.2015 and 03.11.2015, when the respondent Audit Officer had thought it fit to drop the objections on 03.08.2015, pursuant to the directions of this Court passed in W.P.(MD)No.6851 of 2012, inspite of this Court recognising the right of the respondents to revise the pay of scale to its employees, the sanctioning of the petitioner's pension within the period of 12 weeks as stipulated by this Court in W.P.(MD)No.6851 of 2012, cannot be construed as a delay.*
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> *11. In fine, the period between 01.10.2010 to 17.06.2015, when the retirement benefits were withheld was purely because of the decision taken by the respondents to revise the petitioner's scale of pay, pursuant to Audit Objections and the pendency of the writ petitions in W.P.4174 of 2011 and W.P.(MD)No.6851 of 2012, which delay cannot be attributed on the respondents. After 17.06.2015, the audit paras were dropped and the pension was sanctioned on 18.08.2015 and 03.11.2015, which is within the period of 12 weeks fixed by this Court and hence, this period also cannot be termed as "a delay" on the part of the respondents. When there is justifiable reason for belated payment of the retirement/pensionary benefits, it would not be appropriate to direct the respondents to pay interest on such belated disbursement of the monetary benefits. It is also not the*

case of the petitioner that the respondents had wantonly or with an ulterior motive withheld the retirement benefits of the petitioner. While that being so, the claim for interest is unjustifiable."

6. The reasons stated by the writ court are candid and convincing. Therefore, we do not find any reason to interfere with the order impugned. Consequently, the writ order dated 05.07.2021 passed in W.P.No.26701 of 2017 stands confirmed and the Writ Appeal stands **dismissed**. No costs.

[S.M.S., J.] [C.K., J.]
26.06.2024

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

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