



WP(MD)No.8132 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.11.2024

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD) No.8132 of 2021

R.Balasubramanian

... Petitioner

versus

The Commissioner,
Sivagangai Municipality,
Sivagangai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to Na.Ka.No.3085/2020/B2 dated 22.03.2021 pending on the file of the respondent, quash the same and direct the respondent to pay the interest for all his monetary benefits due to his retirement.

For Petitioner : Mr.N.Tamilmani

For Respondent : Mr.J.Lawrance

ORDER

The petitioner is a retired employee of the respondent Municipality. He joined the service in the year 1978 and retired as a Bill



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Collector in the year 2012. His terminal benefits were provided to him after a period of 11 months from the date of his retirement. Therefore, by referring to the provision under Rule 45A of the Tamil Nadu Pension Rules, he made a request for interest for the belated payment on retirement benefits. The same was negated by the respondent by impugned proceedings dated 22.03.2021. Challenging the same, the present writ petition is filed.

2. The petitioner claims that he retired from service on 30.09.2012. His retirement benefits were settled after 11 months from the date of his retirement, i.e. only on 02.09.2013. The arrears of surrender of earned leave and unearned leave were settled on 09.03.2020, after 8 years from the date of his retirement. Further, the re-fixation of pension and arrears of gratuity were released on 30.05.2020 after 8 years from the date of his retirement.

3. The petitioner further claims that as per Rule 45A of the Tamil Nadu Pension Rules, he is entitled to get interest for the belated payment. Therefore, he made a representation to the respondent, which was



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rejected by the impugned proceedings dated 22.03.2021. Hence, he filed the present writ petition.

4. This writ petition was entertained by this Court and ordered notice to the respondent on 20.04.2021. Thereafter, this Court, by its order dated 16.04.2024, directed the respondent to file counter. But, the respondents have not filed their counter affidavit. Therefore, this Court, by recording the earlier proceedings, directed the respondent to file their counter affidavit on or before 25.11.2024 and also directed the Registry to list this case on 25.11.2024, by order dated 18.11.2024. Even then, the respondents have not filed their counter.

5. In the impugned order, the respondent, by referring to an interim order granted by this Court in W.P.M.P.(MD)No.1 of 2010 in W.P. (MD)No.11884 of 2010 dated 17.09.2010, stated that in view of the interim order passed by this Court on 17.09.2010 and disposal of the writ petition only on 10.11.2016, the scale of pay has been revised and then only, the terminal benefits were settled to the petitioner.



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6. The impugned order is a cryptic order without any details. The writ petition referred in the impugned order in W.P.(MD)No.11884 of 2010 was filed by the petitioner as against the order of recovery made against him in the year 2010. This Court, while entertaining the writ petition, on 17.09.2010 granted an order of interim stay. Therefore, this Court, by order dated 10.11.2016, allowed the writ petition in favour of the petitioner by setting aside the order of recovery passed by the respondent in Na.Ka.No.C1/1201/2009 dated 30.08.2010.

7. From the contention of the petitioner, it appears that the gratuity and computation were released to the petitioner on 02.09.2013 even when the writ petition was pending. The other terminal benefits were settled only on 30.05.2020. If the interim order granted in W.P.(MD)No. 11884 of 2010 is an impediment for releasing the terminal benefits, there is no explanation as to how the gratuity and computation were provided to the petitioner on 02.09.2013. This was also after a period of 11 months from the date of his retirement. The other benefits were provided to the petitioner on 09.03.2020.



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8. There is no proper reasoning given by the respondent in the impugned order for the delay of 8 years in providing the terminal benefits to the petitioner. Therefore, this Court is unable to accept the contention of the respondent by referring to the interim order granted in W.P. (MD)No.11884 of 2010.

9. With the available materials, this writ petition is allowed and the impugned proceedings passed by the respondent in Na.Ka.No. 3085/2020/B2 dated 22.03.2021 is hereby set aside. The respondent is directed to pay interest as per Rule 45A of the Tamil Nadu Pension Rules for the belated payment of terminal benefits. No costs.

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NCC : Yes / No.

Index : Yes / No.

Internet: Yes/No.

To

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