



W.P.(MD).No.20573 of 2021.

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.20573 of 2021

and

W.M.P.(MD)No.17213 of 2021

S.Nagaraj

...Petitioner

Vs.

1.The Director of Social Welfare,
O/o the Director of Social Welfare,
Saidapet, Chennai.

2.The Joint Director of Social Welfare
(Administration),
O/o the Joint Director of Social
Welfare,
Chennai.

3.The Social Welfare Officer,
O/o the Social Welfare Officer,
Panagal Maligai,
Saidapet,
Chennai-15.

4.The District Project Officer,
O/o the District Project Officer,
Multi Department Complex,
Behind Theni New Bus Stand,
Theni.

5.The Child Development Officer,
O/o the Child Development Office,
Theni Rural, Theni.

... Respondents



W.P.(MD).No.20573 of 20217.

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to disburse the retirement benefit of the petitioner in the cadre of Junior Assistant along with an accrued interest at the rate of 18% per annum within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Imran,
For Ajmal Associates

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

The prayer of the writ petition is as follows:

This writ petition has been filed to direct the respondents to disburse the retirement benefit of the petitioner in the cadre of Junior Assistant along with an accrued interest at the rate of 18% per annum within the period that may be stipulated by this Court.

2. The facts and circumstances which led to the filing of this writ petition are as follows:

The petitioner was initially appointed as an Office Assistant on 26.11.1987 and thereafter, promoted to the post of Junior Assistant on 01.07.2010, further regularized in the said post on 20.09.2012 by the 2nd



W.P.(MD).No.20573 of 20217.

respondent. On attaining the age of superannuation, the petitioner retired from service on 27.02.2018, however, his terminal benefits were not disbursed. Hence, he made a representation seeking to disburse his terminal benefits. The said representation came to be rejected stating that the petitioner is not entitled to receive the terminal benefits in the cadre of Junior Assistant, but only in the cadre of Office Assistant for want of required educational qualification. Challenging the same, the petitioner filed a writ petition in W.P.(MD)No.20087 of 2019 before this Court and this Court, by an order dated 19.09.2019 allowed the said writ petition. Against which, the respondent authorities had filed a writ appeal in W.A.(MD)No. 1516 of 2019 and the same came to be dismissed by an order dated 24.02.2021 by the Hon'ble Division Bench of this Court and the relevant portion of the same is extracted as follows:

“3.The probation has not been declared on the ground of lack of qualification. Admittedly, the respondent was appointed as Junior Assistant in the year 2010, thereafter he has worked for seven years. Even on the date of retirement, he was working as Junior Assistant. The Government order, which declares pre-foundation course is not equivalent to 10th standard, has come into being in the year 2017. That is the reason why the probation has not been declared. Even otherwise, the appellants are non suited on the ground of acquiescence. It is not as



W.P.(MD).No.20573 of 20217.

WEB COPY

if the respondent sought for promotion. The promotion has been given by the appellants being themselves. Having done so, they cannot deny the consequential pensionary benefits. Admittedly, the respondent has worked as Junior Assistant, even at the time of retirement.

4. Accordingly, the writ appeal stands dismissed. The pension will have to be computed as per the order of the learned Single Judge within eight weeks from the date of receipt of a copy of this order in the cadre of Junior Assistant.”

Even after a favourable order was passed by the Hon'ble Division Bench of this Court, the petitioner's case was not considered and hence, this writ petition came to be filed seeking to direct the respondents to disburse his retirement benefits along with accrued interest.

3. The learned counsel appearing for the petitioner Mr.Mohammed Imran submitted that, the entitlement of the petitioner to receive pensionary benefits in the cadre of Junior Assistant has already been settled by the judgment of the Hon'ble Division Bench of this Court in W.A.(MD)No.1516 of 2019 dated 24.02.2021. Despite the same, the respondent authorities are lethargic in discharging their function by duly sanctioning the eligible



W.P.(MD).No.20573 of 20217.

pensionary benefits to the petitioner in the cadre of Junior Assistant and pressed for allowing the writ petition.

4. Per contra, relying upon the counter affidavit filed by the 4th respondent, the learned Special Government Pleader Mr.D.Gandhiraj submitted that, even though the petitioner was wrongly promoted as Junior Assistant, despite absence of eligible minimum educational qualification prescribed for the said post as ordered by this Court even after his retirement, expeditious action was taken to comply with the order passed by this Court. There is no discernible delay in taking action and that even without declaration of satisfactory completion of probation of the petitioner in the cadre of Junior Assistant, necessary action was taken in anticipation of the order by the Government. Insofar, there is no discernible delay in settling the Gratuity amount i.e., the difference between the amount already fixed and sanctioned by the Accountant General in the cadre of Office Assistant and the revised amount payable to the petitioner on the basis of the application submitted by the petitioner dated 27.12.2021, the petitioner is hardly in a position to maintain the present writ petition and as such he is not entitled for the discretionary relief of this Court and pressed for dismissal of the writ petition.



W.P.(MD).No.20573 of 20217.

5. Heard the learned counsels on either sides and carefully perused the materials available on record.

6. This Court is of the considered view that the claim of the petitioner seeking pensionary benefits in the cadre of Junior Assistant has already been settled by the Hon'ble Division Bench of this Court in W.A.(MD)No. 1516 of 2019. Under such circumstances, it is highly irresponsible and reckless on the part of the respondents for keeping the pension file of the petitioner pending for more than three years from the date of the order passed by the Hon'ble Division Bench of this Court, that is, from 24.02.2021. Condemning the callousness of the respondents in immediately complying the order passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.1516 of 2019 dated 24.02.2021, this Court hereby direct the respondents to disburse the retirement benefits of the petitioner in the cadre of Junior Assistant along with accrued interest of 6% per annum within a period of eight (8) weeks from the date of receipt of a copy of this order, failing which, the respondents are directed to pay a cost of Rs. 1,00,000/- (Rupees One Lakh only) to the Siddha Clinic, Madurai Bench of Madras High Court (A/c No.6865578213, Indian Bank, Madurai Bench of Madras High Court).



W.P.(MD).No.20573 of 20217.

WEB COPY

7. Accordingly, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Director of Social Welfare,
O/o the Director of Social Welfare,
Saidapet, Chennai.
- 2.The Joint Director of Social Welfare
(Administration),
O/o the Joint Director of Social
Welfare,
Chennai.
- 3.The Social Welfare Officer,
O/o the Social Welfare Officer,
Panagal Maligai,
Saidapet,
Chennai-15.
- 4.The District Project Officer,
O/o the District Project Officer,
Multi Department Complex,
Behind Theni New Bus Stand,
Theni.
- 5.The Child Development Officer,
O/o the Child Development Office,
Theni Rural, Theni.



WEB COPY



W.P.(MD).No.20573 of 20217.

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.20573 of 2021

31.07.2024