



W.A.(MD)No.1087 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.1087 of 2017

D.A.Joyson Sethuraj

...Appellant

/Vs./

1.The Board of Trustees,
Tuticorin Port Trust rep. By the Chairman,
Tuticorin Post Trust, Tuticorin.

2.The Chairman,
Tuticorin Post Trust,
Tuticorin.

...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order passed by this Court made in W.P.(MD)No.8097 of 2010 dated 08.12.2016 and allow this writ appeal.

For Appellants : Mr.T.M.Hariharan

For Respondents : No appearance



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JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

A challenge has been made by the writ petitioner against the order passed by this Court dated 08.12.2016 in W.P.(MD)No.8097 of 2010, which was filed for payment of interest at the rate of 12% per annum from 01.03.2003 till 07.09.2009 on the belated payment of retirement benefits.

2. The case of the writ petitioner is that while he was in service, disciplinary proceedings were initiated. Though the petitioner was subsequently allowed to retire on 28.02.2003 through proceedings dated 27.02.2003, the writ petitioner was informed that the disciplinary proceedings initiated against him would continue after his retirement as per the Rule 9 of the Central Civil Service (Pension) Rules, 1972. Challenging the disciplinary proceedings, the writ petitioner filed a writ petition in WP No.34185 of 2003 before the Principal Bench of this



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Court. During pendency of that writ petition, the disciplinary proceedings initiated against the writ petitioner was dropped. Hence, the writ petition was closed with liberty to the writ petitioner to agitate any claim, which has been left in order dated 08.07.2009, wherein the respondents have settled the retirement benefits, by way of separate proceedings in accordance with law. Seeking interest for the delayed payment of retirement benefits, the writ petitioner has filed the writ petition.

3. The learned Single Judge of this Court dismissed the writ petition citing the reason that the scope of making any further claim, would not arise at all, since the undertaking given by the respondents to pay the retirement benefits within two weeks has been complied with. Challenging the same, the writ petitioner is before this Court by way of filing this writ appeal.

4. The learned counsel appearing for the appellant submits that the finding of the learned Single Judge of this Court that the appellant cannot claim interest is not right and the reasoning that the appellant



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cannot misconstrue the liberty given to him requires reconsideration.

There is no irregularity against the appellant and there is no charge that the appellant had caused loss to the government. The only charge against the appellant is that he had raised voice while he met the second respondent on 31.01.2003 and was not wearing his identity badge. Hence, he sought for setting aside the order of the Writ Court by allowing this writ appeal.

5. Heard the rival submissions made on the side of the appellant and perused the materials placed before this Court.

6. It is seen that the disciplinary proceedings was initiated against the appellant before the date of his superannuation. Though the appellant was retired from service, the disciplinary proceedings continued in view of the provisions contained in the pension rules, as against which, a writ petition was filed, wherein stay was also granted. During the pendency of that writ petition, the appellant had been requesting the respondents repeatedly to consider his case



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sympathetically. In this regard, the appellant wrote two letters expressing his regret for the misdeeds committed by him, for which he had sought pardon from the respondents. Having accepted the same, the respondents passed the order dated 08.07.2009 directing the officials to pay his retirement benefits. In that writ petition, a plea was also made to the effect that in view of the order dated 08.07.2009, the writ petition may be closed with liberty to the appellant to agitate any claim, which has been left out in the order dated 08.07.2009. Recording the same, that writ petition was closed and the retirement benefits were also paid to him. When that being the case, the appellant now seeking interest for the payment of retirement benefits is not reasonable.

7. The learned Single Judge of this Court, only after considering all the aspects, held that when the appellant himself made a plea to close the writ petition by recording the order of the respondents dated 08.07.2009, the plea now made by the appellant seeking interest for the payment cannot be said to be further claim or left out claim of the order of the respondents dated 08.07.2009. The liberty given to the



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appellant cannot be misused to make such claim of interest from the respondents. The learned Single Judge of this Court has rightly dismissed the writ petition.

8. In view of the aforesaid observations, there is no infirmity in the order passed by the learned Single Judge of this Court and hence, this writ appeal is dismissed. No costs.

(V.B.S.J.) & (K.K.R.K.J.)
13.03.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes
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and
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Judgment made in
W.A.(MD)No.1087 of 2017

Dated:
13.03.2024