



W.A.No.263 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.263 of 2023

and

C.M.P.No.2706 of 2023

S.Muthumalai Rani,
W/o. S.Karuppaiah,
No.1/845 B, Kalappu Colony,
Happy nagar, H.A.P.P. Post,
Poolangudi, Trichy – 620 025.

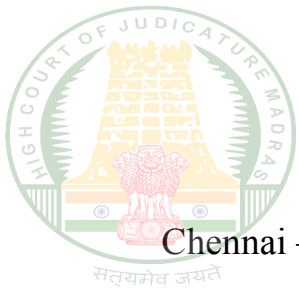
... Appellant

Vs.

1.The Secretary, Department of Health and Family Welfare ,
Secretariat, Fort St.George,
Chennai – 600009.

2.The District Collector,
Coimbatore District,
Collectorate Building,
Coimbatore – 641018.

3.The Principal Accountant General (A&E)
O/o.The Accountant General (A&E) Tamilnadu,
361, Anna Salai, Teynampet,



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Chennai – 600018.

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4. Director of Pension,
259, Anna Salai, 4th Block, 3rd Floor,
DMS Building, Teynampet,
Chennai – 600009.

5. The Dean
Coimbatore Medical College Hospital,
Coimbatore – 641018.

6. Director of Medical Education,
Directorate of Medical Education,
No.162, EVR Periyar Salai,
Kilpauk, Chennai – 600010.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.34112 of 2016 dated 16.11.2022.

For Appellant : Mr. B. Kumar, Senior Counsel for
Mr. T. Sudhanraj.

For Respondent : Mr. R. Kumaravel, Additional Government Pleader
for R1 to R4.

Ms. M. Sneha, Special Counsel for Health & Family
Welfare for R5 & R6.

J U D G M E N T

(Delivered by Dr. A.D. Maria Cleto, J)



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This writ appeal is filed by the appellant/writ petitioner aggrieved by certain directions issued in the final paragraph of the order passed by the learned Single Judge, while allowing the writ petition by quashing the recovery notice dated 12.09.2016 issued by the 5th respondent in Na. Ka. No. 1338/Ni 1/2015.

2. The learned Single Judge, after quashing the impugned recovery notice, had further directed the respondent authorities to initiate conduct detailed enquiry, if required, against the appellant and all the officials concerned, under Rule 9 of the Tamil Nadu Pension Rules, 1978, after obtaining sanction from the Government and to conclude such proceedings within three months. It was also observed that if the writ petitioner fails to cooperate with the enquiry, she would not be entitled to any relief, and delay could not be attributed to the Department.

3. The grievance of the appellant in this appeal is that, while the primary relief of quashing the recovery notice was granted, the further directions to conduct detailed enquiry under Rule 9 of the aforesaid Rules and to make the release of retirement benefits conditional on her cooperation in a future enquiry, amount to fresh adverse directions which are not only unnecessary but also beyond



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the scope of the writ petition. The appellant seeks the setting aside of these consequential directions and a positive direction for release of her retirement benefits along with interest at the rate of 24% per annum.

4. During the hearing, it was brought to the notice of this Court that the earlier enquiry proceedings were initiated without obtaining prior sanction from the Government as mandated under Rule 9(2)(b) of the Tamil Nadu Pension Rules, 1978. The absence of such prior sanction renders the initiation itself procedurally unsustainable. Hence, we are in agreement that the initiation of such enquiry was legally untenable.

5. However, we are also conscious of the fact that the learned Single Judge, while quashing the impugned order, did not leave the matter at that, but went on to issue directions enabling detailed enquiry, if required, which the appellant now challenges.

6. It is true that the learned Single Judge, after rightly noting the procedural irregularity—namely, the initiation of proceedings without obtaining prior sanction from the Government proceeded to hold that the competent authority is

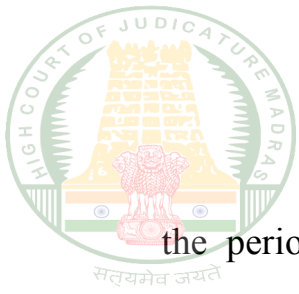


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not precluded from conducting a detailed enquiry, provided such sanction is obtained. This observation in itself is legally unobjectionable and within the domain of judicial discretion, especially in service jurisprudence.

7. However, the difficulty arises from the fact that the learned Single Judge went a step further to impose a consequential obligation on the petitioner to cooperate, failing which she would be disentitled from claiming relief. These directions, though possibly well-intentioned, were not part of the relief sought by either party in the writ petition and have the effect of burdening a litigant who had otherwise succeeded in her primary prayer. It is a settled principle that courts should avoid granting reliefs that are not prayed for, especially if they cause fresh prejudice to a successful party.

8. Therefore, while the learned Single Judge was correct in observing that a detailed enquiry, if required, is legally permissible subject to compliance with the statutory requirements, we are of the view that the operative direction mandating such an enquiry within a specified period and imposing consequences on the petitioner for alleged non-cooperation was unnecessary and goes beyond the scope of the original prayer. Hence, it is clarified that if such a proceeding is initiated,

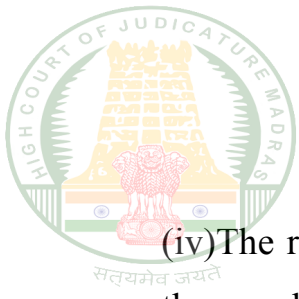


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the period during which the writ proceedings were pending — including the period when interim orders were in force — shall be eligible to be excluded while computing the limitation period, in accordance with the settled principles of law including those embodied under Section 14 of the Limitation Act, 1963, and the doctrine recognized in service jurisprudence concerning exclusion of time spent in bona fide litigation. This clarification is necessary to avoid any ambiguity concerning the Department's right to initiate proceedings within the permissible period, reckoned after statutory exclusions.

9. Accordingly, the writ appeal is allowed as under:

- (i) The directions issued in the latter part of the order of the learned Single Judge, mandating a detailed enquiry within a fixed time after obtaining Government sanction if required and imposing conditions on the writ petitioner's cooperation, are hereby set aside.
- (ii) The liberty of the respondents to proceed in accordance with law and after obtaining proper sanction as contemplated under Rule 9 of the Tamil Nadu Pension Rules, 1978, is expressly left open, subject to applicable limitation Law.
- (iii) The order of the learned Single Judge quashing the recovery notice dated 12.09.2016 is confirmed.



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(iv) The respondents are directed to process and release the retirement benefits of the appellant, if otherwise eligible, within a period of six weeks from the date of receipt of a copy of this order.

(v) However the prayer for 24% interest is not entertained; however, for any delay beyond the supra stipulated period of six weeks, the amount shall carry interest at the rate of 6% per annum from the date of default till the date of actual payment.

There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

(R.S.K., J) (A.D.M.C., J)

21.04.2025

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NCC : Yes / No

Index : Yes / No

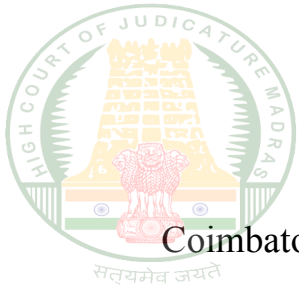
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To

1. The Secretary, Department of Health and Family Welfare ,
Secretariat, Fort St. George,
Chennai – 600009.

2. The District Collector,
Coimbatore District,
Collectorate Building,

7/9



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Coimbatore – 641018.

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