BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05/11/2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

WP(MD). No.5453 of 2025

Avudaiappan, ... Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 34.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Now at Thoothukudi..

3. The Director,,
Audit Division,
Hindu Religious and
Charitable Endowment Department,
Chennai - 18.

4. The Deputy Commissioner / Executive Officer,
Arulmigu Sankaranarayanaswamy Thirukovil,
Sankarankovil,
Tenkasi District.. ... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to settle the full retirement benefits of the petitioner with 12 percentage interest from 01.11.2013 till payment on the basis of the 4th respondents letter to the 3rd respondent in Na.Ka. 656/2016/A3 dated 30.09.2024 within a time frame to be stipulated by this Court.

For Petitioner : M/s.Janaki Devi V,
For R1 to R3 : Mr.P.Subburaj
Special Government Pleader
For R4 : Mr.S.Manohar

ORDER

This writ petition has been filed seeking direction to the respondents to settle the full retirement benefits of the petitioner with 12% percentage interest from 01.11.2013 till payment on the basis of the fourth respondent's letter to the third respondent in Na.Ka. 656/2016/A3 dated 30.09.2024.

2. The petitioner, who had superannuated on 31.01.2023, approached this Court for settlement of his terminal benefits. When this matter was taken up for hearing on 15.10.2025, this Court has given a finding that the audit objections which are raised against the petitioner

cannot be put against the petitioner and directed the third respondent to disburse the terminal benefits of the petitioner on or before 14.11.2025 and to report compliance on 17.11.2025 and this Court had further restrained the respondents 1 to 4 herein not to draw their salaries for the month of October 2025.

3. However, upon a submission made by the learned counsel appearing for the fourth respondent that payment has already been made to the petitioner from 20.03.2025 to 28.10.2025; thereby all his terminal benefits have been settled, on request, the matter came to be listed before this Court. Hence, the matter was listed on 30.10.2025. On which date, this Court recording the statement made by the learned counsel appearing for the fourth respondent permitted the respondents in the writ petition to withdraw the salary. For better appreciation, the orders dated 15.10.2025 and 31.10.2025 respectively are extracted here under :

15.10.2025

> *"The petitioner had superannuated as early as in the year 2013 and has not been paid his terminal benefits on the ground that there is an audit objection pending against him.*

In W.P(MD)No.13919 of 2023, dated 03.06.2024, this Court recording the aforesaid facts had directed the fourth respondent herein to send reminders to the Finance Committee and get appropriate orders within a period of one month.

2. The contempt petition filed by the petitioner was closed by recording that the fourth respondent herein had complied with the order passed in the writ petition by sending reminders. But unfortunately what has been failed to take note of by the Contempt Court is the direction that the fourth respondent herein should get appropriate orders within a period of one month. Therefore, the order made in W.P(MD)No.13919 of 2023 has not been still complied with even after one year of the order has been passed.

3. When the matter was taken up for hearing today, the learned counsel for the fourth respondent submits that the audit objection raised against the petitioner is still pending. It is to be noted that the audit objection was raised during the service of the petitioner and even after 12 years from the superannuation of the petitioner, the audit Department has not concluded the said audit objection.

4. In view of the same, audit objection raised against the petitioner during his service cannot be put against the petitioner for grant of terminal benefits including gratuity, Provident Fund. The Section 7 of the Payment of the Gratuity Act envisages that such gratuity should be paid within a period of 30 days from the date of superannuation and an exemption is only granted if such payment is delayed at the instance of the employee. In this case, there is no delay at the instance of the employees.

"5. Since this court had held that the audit objection cannot be put against the petitioner, the third respondent is directed to disburse the terminal benefits of the petitioner on or before 14.11.2025 and report compliance on 17.11.2025. Till such time, the respondents 1 to 4 herein shall not draw their salaries for the Month of October 2025.

6. Post on 17.11.2025 for reporting compliance."

31.10.2025

" When the matter is taken up for hearing today, a letter of the Deputy Commissioner /Executive Officer of the temple addressed to the learned counsel appearing on behalf of the temple is placed before this Court, wherein it is

indicated that the payment for a sum of Rs.12,23,677/- has been paid to the petitioner through ECS. The said fact is taken on record.

2. Considering the fact that pursuant to the order of this Court dated 15.10.2025, the payment has been paid to the petitioner, the respondents are entitled to receive their salary forthwith.

3.Post the matter on 05.11.2025 under the same caption. "

4. This Court had time and again passing orders directing payment of terminal benefits to employees who have superannuated. Terminal benefits have been held not to be a bounty payable to retired employees and also held to be a property protected under Article 300A Constitution of India. When such is the status that is given to the terminal benefits of a retired employee, there can be no delay in the payment of such terminal benefits. This Court has also taken judicial notice of the fact that the Gratuity Act 1972, the Provident Fund Act 1925 and the Tamil Nadu Pension Rules 1978 governing the terminal benefits of Government Servant had fixed time lines for payment of terminal benefits.

5. This Court has failed to see that despite time granted for grant of such terminal benefits, such terminal benefits are not being disbursed by the Authorities concerned and the same is being protracted for one reason or the other. This Court takes this opportunity to direct the Chief Secretary of the State to issue necessary directions to all the respective Secretaries, Heads of Departmental of the State, State undertakings and undertakings governed by the state, including the corporations by issuing necessary directions for disbursement of terminal benefits to retired employee within the time stipulated under the respective provisions.

6. The said provisions also envisages the payment of interest on such delayed payments. The reasons that has been attributed before this Court is that there is a financial crisis that is being faced by the State and the departments which includes the Municipalities and Panchayat. However, when terminal benefits are protected under Article 300A of the Constitution of India there can be no reason to delay the payment to the beneficiaries without any substantive justification. This Court also takes

the judicial notice of the fact that even an employee who is under suspension and disciplinary proceedings pending against him are permitted to retire subject to the proceedings being proceeded with under the provision of the Tamil Nadu Pension Rules. The Punishments under the Tamil Nadu Pension Rules are withdrawal, withholding of cut in a pension. Therefore, there can also be no justification on the part of the employer not to disburse the terminal benefits even to such employees.

7. With the above observations and directions, this writ petition is disposed of. No Costs.

05.11.2025

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TO

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K.KUMARESH BABU,J

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ORDER
IN
WP(MD) No.5453 of 2025

Date : 05/11/2025