BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A(MD)No.1528 of 2019
and
C.M.P.(MD) Nos.2065 & 12203 of 2019

1. The Government of Tamilnadu,
Represented by its Principal Secretary,
Environment and Forest Department,
Fort St.George,
Secretariat, Chennai - 600 009.

2. The Principal Chief Conservator of Forests,
Chennai.

3. The Chief Conservator of Forests,
Tirunelveli Region, Tirunelveli.

4. The District Forest Officer,
Kanniyakumari Division,
Vadaseri, Nagercoil,
Kanyakumari District. ... Appellants

Vs

C.Sobitharaj ... Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court in WP(MD).NO.24480 of 2018, dated 07.01.2019 .

For Appellants	:	Mr.S.P.Maha Rajan Special Government Pleader
For Respondent	:	Mr.R.Sriram for Mrs.P.Kalaiyarasi Bharathi

JUDGMENT

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The State preferred the intra Court appeal challenging the writ order dated 07.01.2019 in W.P(MD)No.24480 of 2018.

2.The respondent filed a writ petition challenging the G.O.(P)No. 103 Environment and Forest Department dated 07.05.2018 settling the terminal and pensionary benefits due to the respondent.

3.The fact remains that the respondent was due to retire from service on attaining the age of superannuation on 30.09.2007. However, he was placed under suspension before his date of retirement i.e., on 26.09.2007. Since disciplinary proceedings was initiated, he was not allowed to retire and his services were extended. Therefore, question of settling the terminal and pensionary benefits at that point of time would not arise at all. Charge memo was issued and the respondent challenged the charge memo by filing the writ petition in W.P(MD)No.11404 of 2009. The writ petition was allowed and the charge memo was set aside by this Court vide order dated 03.06.2014. Since the charge memorandum issued by the competent authority was set aside, the petitioner made an application seeking settlement of terminal and pensionary benefits. Thereafter, action was initiated and the Government settled the terminal and pensionary benefits in G.O.(P).No.103 dated 07.05.2018. Not satisfied with the settlement of benefits, the petitioner again filed a writ petition in W.P(MD)No.24480 of 2018 challenging the said Government order.

4.The learned Counsel for the respondent would mainly contend that the charge memo has been set aside by this Court and therefore, the writ Court has directed the Government to settle 12% interest for the delayed settlement of terminal and pensionary benefits.

5.The learned Special Government Pleader appearing on behalf of the appellants would submit that even the interest amount has been settled at the rate of 8% per annum in favour of the respondent in G.O.(P) No.103 from 01.02.2008 to 31.11.2015. Since the interest has been calculated at the rate of 8% interest per annum, as per the Government orders, the award of 12% interest per annum as ordered by the writ Court is not only exorbitant and not based on the pension rules applicable. Therefore, the writ appeal is to be considered.

6.This Court has considered the rival submissions made between the parties to the *lis*.

7.The fact remains that the respondent was not allowed to retire from service on attaining the age of superannuation on 30.09.2007 and placed under suspension. His services were extended, charge memo was issued and he filed a writ petition challenging the charge memo and this Court set aside the charge memo vide order dated 03.06.2014.

Thereafter, no further proceedings are continued and therefore, action was initiated to settle the terminal and pensionary benefits due to the respondent.

8.The contention of the respondent is that the interest is to be calculated for all the terminal and pensionary benefits including leave salary etc. However, the applicable interest to the eligible benefits are contemplated under Rule 45A of the Tamil Nadu Pension Rules. Therefore, the interest for belated settlement of terminal and pensionary benefits is to be calculated only with reference to the terms and conditions stipulated under Rule 45A of Tamil Nadu Pension Rules, 1978.

9.During the pendency of the departmental/disciplinary proceedings or criminal case, the employee is not entitled to seek settlement of terminal and pensionary benefits and also the interest. Such conditions are enumerated under Rule 45 A of the Tamil Nadu Pension Rules and the said rule reads as under:

"45A. [Interest on delayed payment of Gratuity. [Rule 45-A inserted - G.O.Ms.No.506, Finance (Pension) Department, dated 27-06-1995.]

(1)Interest at the rate of eight per cent per annum shall be payable on the death-cum-retirement gratuity paid beyond (a) period of two months from the date of retirement of a Government servant [***]

[Provided that on and from the 12th June 1987, the rate of such interest shall be as follows:-

(a)seven per cent per annum beyond a period of three months and up to one years; and

(b)ten per cent per annum beyond a period of one year;]

[Provided further that on and from 20th February 1995, the rate of such interest shall be twelve percent per annum (compounded annually).

Provided also that on and from 1st April 2004, the rate of such interest shall be at the rate of interest payable, on General Provident Fund during the year of retirement of the Government servant (compounded annually).[Proviso to 45-A inserted - G.O.Ms.No.487, Finance (Pension) Department, dated 07-10-2009.]

Provided further that no such interest shall be payable:-

(a)where the institution of departmental or judicial proceeding against the retiring Government servant concerned is pending; and

(b)for the fraction of a month.]"

10.Therefore, interest is to be settled for belated payment of terminal and pensionary benefits mainly on the ground of administrative delay. While calculating the interest, eligible amount alone is to be taken into consideration, as per the Tamil Nadu Pension Rules.

11.In the present case, the writ Court has granted 12% interest per annum for all the benefits without considering the fact that the respondent was placed under suspension and not allowed to retire and the charge memo was set aside by this Court only in the year 2014. Therefore, he is eligible for settlement of interest only in terms of the conditions stipulated under Rule 45 A of the Tamil Nadu Pension Rules, 1978 and not for the entire benefits at the rate of 12% per annum as directed by the writ Court.

12.In the present case, the Government itself calculated the interest as per the rules and settled the terminal and pensionary benefits to the respondent vide G.O.(P)No.103, dated 07.05.2018. The calculation sheet enclosed along with the government order is extracted as follows:

வ.எண்	வட்டிக்குரிய கால அளவு	வட்டிக் கணக்கு	வட்டித் தொகை	கூட்டுத் தொகை (ரூபாயில்)
1.	01.01.2008 முதல் 31.03.2008 வரை	(4,38,471* 8 *3) / 100*12	8,769	4,47,240
2,	01.04.2008 முதல் 31.03.2009 வரை	(4,47,240* 8 *1) / 100	35,779	4,83,019
3.	01.04.2009 முதல் 31.03.2010 வரை	(4,83,019* 8 *1) / 100	38,642	5,21,661
4.	01.04.2010 முதல் 31.03.2011 வரை	(5,21,661* 8 *1) / 100	41,733	5,63,394
5.	01.04.2011 முதல் 31.03.2012 வரை	(5,63,394* 8 *1) / 100	45,072	6,08,466
6.	01.04.2012 முதல் 31.03.2013 வரை	(6,08,466* 8 *1) / 100	48,677	6,57,143
7.	01.04.2013 முதல் 31.03.2014 வரை	(6,57,143* 8 *1) / 100	52,571	7,09,714
8.	01.04.2014 முதல் 31.03.2015 வரை	(7,09,714* 8 *1) / 100	56,777	7,66,491
9.	01.04.2015 முதல் 31.03.2016 வரை	(7,66,491* 8 *8) / 100*12	40,880	----
		மொத்தம்	3,68,900	

13.In view of the fact that the interest for the belated settlement of pensionary benefits has already been paid to the respondent, the appellants are directed to verify the correctness of the same with reference to the terms and conditions stipulated under Rule 45A of the Tamil Nadu Pension Rules, 1978. However, if any excess payment has already been paid, the same shall not be recovered from the respondent. No government employee is entitled to claim excess amount than that of his/her entitlement, which would result in unjust gain and financial loss to the Exchequer. The amount as eligible under the Pay Rules and Pension Rules alone is to be settled by following the procedures.

14.In the present case the interest for the belated payment of pensionary benefits has been settled and therefore, the appellants shall find out the correctness of the said settlement and payment of interest in terms of Rule 45 A of Tamil Nadu Pension Rules. However, the order passed by the writ Court impugned is not in consonance with the terms and conditions stipulated under Rule 45 A of the Tamil Nadu Pension Rules, 1978. Consequently, the writ order, dated 07.01.2019 is set aside and the writ appeal stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

[S.M.S., J.] [A.D.M.C., J.]
23.06.2025

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

LR

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