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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.21968 of 2019 and
WMP(MD) No.530 of 2025

K.Nagarathinam ... Petitioner

Vs

1.The Commissioner of Agriculture,
Chepauk, Chennai.

2.The Principal Accountant General (A and E)
361, Anna Salai,
Teynampet, Chennai-18.

3.The Accountant Officer(Pension 7),
O/o. the Principal Accountant General (A and E),
361, Anna Salai,
Teynampet, Chennai-18.

4.The Assistant Accountant Officer,
O/o. The Principal Accountant General (A and E),
361, Anna Salai,
Teynampet, Chennai-18. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing

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the respondents herein to sanction and disburse 10% interest for the delayed payment of the petitioner's pension and Retirement benefits.

For Petitioner : Mrs.Porkodi Karnan
M/s.Lajapathy Roy Associates
For R1 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R2 to R4 :Mr.P.Gunasekaran

O R D E R

The petitioner is a retired Assistant Agriculture Officer. While he was in service, a disciplinary proceedings under Rule 17(b) of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, 1955 has been initiated as against him that he has caused a loss to the Government for a sum of Rs.37,100/-, while implementing the National Horticulture Mission Scheme and also for certain other supervisory lapses. A charge memo vide DCS2/5657/2013, dated 06.01.2014 has been issued to the petitioner, by the Director of Horticulture and Plantation Crops and he was placed under suspension on 31.01.2015. Thereafter, the order of suspension was revoked on 08.07.2016 and he was also permitted to retire from

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service on his attaining the age of superannuation, by a proceedings, dated 20.07.2016, without prejudice to the pending disciplinary proceedings. Thereafter, on proved charges, a punishment of "reduction of Rs.300/- per month from the pension for 18 months" has been imposed vide G.O(3D) No.267, Agriculture (AA 8) Department, dated 18.11.2016. The petitioner has not challenged the order of punishment.

2.Apart from the above departmental proceedings, a case in Crime No.1 of 2009 has also been registered as against this petitioner that he stood as a guarantor for an accused in a criminal case. Therefore, the pension proposal of the petitioner was rejected by the Principal Accountant General (A&E)/the second respondent herein for his involvement in the criminal case. The petitioner with a grievance that his terminal benefits was not settled has filed a writ petition in WP(MD) No.13207 of 2018 and the same was disposed of by this Court on 11.07.2018 on the following terms:-

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i. The issue is remitted back to the second respondent for reconsideration and while making the reconsideration, the second respondent shall bear in mind the observations made in this order, as referred to above and accordingly, take a decision with regard to the grant of pension and gratuity and other retiral benefits to the petitioner and such decision shall be taken by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

ii. In this regard, the Deputy Director of Horticulture, Ramanathapuram, who is the proper authority to forward the pension proposals of the petitioner to the second respondent for appropriate decision, shall forward the said proposal within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same from such officer, the pension proposals shall be decided as directed above by the second respondent within the time stipulated therein."

3. Pursuant to the above order, dated 11.07.2018, the respondents have settled the terminal benefits to this petitioner on 04.04.2019. The petitioner has made a further representation that he

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is entitled for interest for the belated payment of DCRG, as per the provision under Section 45 A of the Tamil Nadu Pension Rules, 1978, before the respondents and filed this writ petition.

4.The learned counsel appearing for the petitioner submits that the petitioner is entitled to 10% interest for the belated payment of DCRG. According to the learned counsel for the petitioner, it has been clarified in Finance (Pension) Department Letter No.21397/PENSION/91, dated 19.05.1991 that interest has to be allowed for the delayed payment of Death-cum-Retirement Benefits.

5.The learned counsel appearing for the respondents 2 to 4 submits that this petitioner is not entitled for interest as per Provision under Section 45A of the Tamil Nadu Pension Rules. However, in the event, if any proposal has been sent by the Commissioner of Agriculture, Chennai/the first respondent, the same would be considered by the Accountant General. He further submits

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that the Department alone has to take a call on the payment of interest on belated payment of DCRG, as per the Government instructions in letter No.103354/Pension/07-2, dated 07.09.1997, wherein, the Government has issued certain directions to all the Department Secretaries, as under:-

> "It has been brought to the notice of the Government that Departmental officers and pay and Accounts Officers are requesting the Accountant General to issue necessary authorisation to the Treasury Officers for the calculation of the interest on the delayed payment of Death-cum-Retirement Gratuity and also for the payment of such interest. I am to clarify that for the payment of interest on the delayed payment of Death-cum-Retirement Gratuity, no specific authorisation from the Accountant General is necessary. I am also to state that on the strength of the sanction accorded by the Departments of Secretary, interest may be worked out by the Department and a bill presented to the concerned Treasury/Pay and Accounts Office for the drawal and payment to the pensioners."

6.This Court considered the rival submissions made and also perused the materials placed on record.

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7.The petitioner, a retired employee of the Department of Agriculture has approached this Court, seeking interest for the belated payment of DCRG, as per the provision under Section 45 A of the Tamil Nadu Pension Rules,1978. For better understanding, Section 45 A of the Tamil Nadu Pension Rules,1978 is extracted as under:-

> 45-A Interest on delayed payment of Gratuity
> "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 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 upto one year; and
> (b) Ten per cent per annum beyond a period of one year;
> Provided that on and from 20th February 1995, the rate of such interest shall be twelve per cent per annum.
> 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.
> Provided further no such interest shall be payable.

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a. Where the institution of department or judicial proceeding against the Government Servant concerned is pending.

b. For the fraction of month.

According to the learned counsel for the respondents 2 to 4, the petitioner is not entitled for interest for the belated payment of DCRG as per Section 45 A of the Tamil Nadu Pension Rules, on account of pending judicial proceedings. Moreover, certain instructions have also been issued by the Government in this regard, vide letter, dated 07.09.1997.

8.In view of the submissions made by the learned counsel for the respondents 2 to 4, this writ petition is closed with a direction to the first respondent to take a call on the petitioner's representation with regard to the payment of interest for belated payment of DCRG, in the light of the Government letter No. 103354/Pension/07-2, dated 07.09.1997, and also as per Section 45A of the Tamil Nadu Pension Rules, 1978, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

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Consequently, connected Miscellaneous Petition is also closed.

24.01.2025

NCC:Yes/No
Index:Yes
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Order made in
W.P(MD)No.21968 of 2019 and
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