



ABSTRACT

Highways and Minor Ports Department - National Highways - Payment of interest for the fee bill amount of Rs.5,34,560/- to Thiru R.Swaminathan, formerly Additional Government Pleader for the preparation of grounds to set aside the award, dated 31.05.1995 in respect of dispute arisen for construction of Pamban bridge in N.H.49 - Rs.10,74,465/- - sanctioned - orders - Issued.

Highways and Minor Ports (HV2) Department

G.O.(3D) No.42

Dated 04-11-2015.

Manmatha - Iyappasi 18 - Thiruvalluvar Aandu 2046)

Read:-

1. G.O.(4D) No.44, Highways and Minor Ports (HV2) Department, dated 22.10.2012
2. Representation received from Thiru R.Swaminathan, dated 03.02.2013.
3. Orders of Hon'ble High Court of Madras, dated 25.11.2013 in W.P.No.20114 of 2013.
4. Government Letter No.9458/HV2/2013-9, dated 26.03.2014.
5. From the Chief Engineer (National Highways), Highways Department Letter No.8721/Opp.1/NH/1989, dated 03.02.2015 and 13.03.2015.
6. From the Additional Government Pleader, High Court of Madras Letter dated 17.08.2015 and 18.09.2015.

ORDER:-

In G.O. first read above, orders were issued for according sanction of a sum of Rs.5,34,560/- towards payment of fees to Thiru R.Swaminathan, formerly Additional Government Pleader, High Court of Madras for the preparation of grounds to set aside the award passed in O.P.No.328 of 1996, in compliance to the orders of Hon'ble High Court of Madras passed in W.P.No.4889 of 2012, dated 23.08.2012.

2. In the reference second read above, Thiru R.Swaminathan, formerly Additional Government Pleader, High Court of Madras has made representation to Government for sanction of Rs.10,74,465/- towards interest for a sum of Rs.5,34,560/- already sanctioned for the works done in the above case at 12% per annum from 01.12.1995 to 30.09.2012 by quoting the Para-3 of the order of the Hon'ble High Court of Madras, dated 02.11.2012 in W.P.No.4889 of 2012 that " the

interest for the belated amount is a separate issue. Hence, no further order is required to be passed". Subsequently, Thiru R.Swaminathan, formerly Additional Government Pleader has filed W.P.No.20114 of 2013 before Hon'ble High Court of Madras for seeking payment of interest.

3. In the order third read above, the High Court of Madras has directed to consider and disposed of the representation of Thiru R.Swaminathan dated 03.02.2013 in the light of the judgement in W.A.No. 1366 of 2013 and such exercise shall be completed within a period of three months from the date of receipt of a copy of the order.

4. The Hon'ble High Court of Madras has disposed the above W.P.No.20114/2013 taking into account of the judgement passed in W.A.No.1366 of 2013. The details of the W.A.No.1366 of 2013 is as follows:-

- (a) The Hon'ble High Court of Madras in its common order dated 11.12.2012 in W.P.No. 1969, 1470, 3800, 3801, 3824 and 3120 of 2012 has directed to sanction legal fee claimed and interest for the bills already sanctioned and paid with 12% interest per annum from the date of expiry of six months from submission of fee bill upto the date of payment.
- (b) In order to comply the above order; the Government have filed W.A.No.1366 of 2013 and undertake in the affidavit that the pending fee bills with 12% interest will be paid from the date of bill to till the date of payment and also requested to grant time to make payment with 12% interest.

5. In the letter fourth read above, the the petitioner was informed that his claim for interest is not feasible of compliance, as per the above judgement, since he is not submitted any fee bill.

6. But, the petitioner Thiru R.Swaminathan has filed C.P.No.2788 of 2014 in W.P.No.20114 of 2013 before High Court of Madras for non compliance of the orders of the High Court of Madras dated 25.11.2013 in W.P.No. 20114 of 2013.

7. A Counter Affidavit has been filed before Hon'ble High Court of Madras by explaining that the order of court has been complied and an additional counter affidavit has also been filed based on the direction of Hon'ble Justice K.K.Sasidharan during the hearing on 09.03.2015 by including following points:-

- (i) The fees amount of Rs.5,34,560/- claimed by Thiru R.Swaminathan for preparing the grounds in O.P.No.328/96 is arbitrary whereas Thiru Mohamed Yusuf, Special Government Pleader (C.S) in his fee bill dated 02.08.1999 has mentioned that value of the O.P.No.328/96 is Rs.3,12,13,466/- and has furnished a fee bill amounting to Rs.3,18,635/- for himself as per Revised Rule 2(1)(c)

of High Court Fees Rules 1956 and 1/3 of the fees i.e. Rs.1,06,212 as per Rule 12(2) of High Court Fees Rules to Thiru V.Srikanth, Government Advocate for assisting him in the above O.P.328/96.

- (ii) Even, if it is taken for argument sake that Thiru R.Swaminathan is eligible for fees in O.P.No.328/96 then as per the prevalent fees rules is only for 50% of Fees paid to Thiru Mohamed Yusuf, i.e. Rs.1,59,318/-.
- (iii) If interest is calculated @ 12% as per the claim of Thiru R.Swaminathan for the period from 01.12.1995 to 30.09.2012 total fees including the interest works out to Rs.4,97,136/-.
- (iv) But even in the absence of original fee bill, the Government has paid Rs.5,34,560/- on 30.12.2012 based on the judgement delivered in W.P.No.4889 of 2013 vide G.O.(4D) No.44, Highways and Minor Ports (HV2) Department, dated 22.10.2012 for preparation of grounds to set aside the award in O.P.No.328/96.

8. In his letter fifth read above, the Chief Engineer (National Highways), Highways Department has requested the Government to sanction of sum of Rs.10,74,465/- towards interest for the fee bill amount of Rs.5,34,560/- at 12% per annum from 01.12.1995 to 30.09.2012 to Thiru R.Swaminathan based on the court direction in order to avoid contempt of court.

9. In his letter sixth cited above, the Special Government Pleader, Hon'ble High Court of Madras has requested the Government to comply the orders of Hon'ble High Court of Madras passed in the orders third cited above.

10. In order to avoid contempt of court, urgency and sensitiveness of the case, the Government has decided to accept the request of Thiru R.Swaminathan, formerly Additional Government Pleader, High Court of Madras and accord sanction a sum of Rs.10,74,465/- (Rupees Ten lakhs, seventy four thousand, four hundred and sixty five only) towards payment of interest for the fee bill for the period from 01.12.1995 to 30.09.2012 at 12% per annum for the preparation of grounds in O.P.No.328/1996.

11. The expenditure sanctioned in Para-10 above shall be debited to the following head of account:-

"3054 - Roads and Bridges - 01 - National Highways - 001 - Direction and Administration - I - Non Plan - AC - Executive Establishment (National Highways) - 25 Interest charged"
(DPC 3054-01-001-AC-2501)

12. Necessary additional funds of Rs.10,74,465/- will be provided in Revised Estimate/Final Modified Appropriation 2015-16 to meet the expenditure sanctioned in Para-10 above. Pending provision of such funds in Revised Estimate/Final Modified Appropriation 2015-16, the Chief Engineer (National Highways), Chennai is authorised to incur the expenditure. This should be brought to the notice of Legislative by specific inclusion in the Supplementary Estimates 2015-16. The

Chief Engineer (National Highways), Chennai is directed to include the expenditure sanctioned above, while sending the Budget proposal for Revised Estimate/Fund Modified Appropriation 2015-16 and also to send necessary Explanatory Notes including the above expenditure in the Supplementary Estimates 2015-16 Finance (BG-1/PW-1) Department without fail.

13. The Chief Engineer (National Highways), Highways Department authorized to draw and disburse the above sanctioned amount Thiru R.Swaminathan, formerly Additional Government Pleader, High Court Madras.

14. This order issues with concurrence of Finance Department vide U.O.No.209/ADS(Dr.PU/PW1/2015, dated 04-11-2015 and ASL No.1202 (0 thousand, two hundred and two)

(By order of the Governor)

Rajeev Ranjan
Principal Secretary to Government

To
The Chief Engineer (National Highways), Highways Department, Chennai-600005.
Thiru R.Swaminathan, formerly Additional Government Pleader, High Court,
Chennai-600104.
(Through Chief Engineer (National Highways), Highways Department,
Chennai-600005.
Thiru M.S.Ramesh, Additional Government Pleader, High Court of Madras,
Chennai-600104.
The Accountant General, Chennai-18/35..
The Pay and Accounts Officer (East), Chennai-600008.
The Pay and Accounts Officer, High Court, Chennai-600104.

Copy to:-

Office of the Hon'ble Chief Minister, Chennai-600009.
The Spl.Personal Assistant to Hon'ble Minister (Finance & Public Works),
Chennai-600009.
The Senior Special Personal Assistant to Hon'ble Minister
(Highways and Minor Ports), Chennai-600009.
The Private Secretary to Principal Secretary to Government,
Highways and Minor Ports Department, Chennai-600009.
The Public (L.O)/Law Department, Chennai-600009.
The Finance (PW1/BG.I/BG.II) Department, Chennai-600009.
C.No.9458/HV2/2013.
SF/SC.

// Forwarded By Order //


SECTION OFFICER