



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.07.2026

PRONOUNCED ON : .07.2026

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THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

WP No. 1680 of 2019

S.Jaya Kumar

Petitioner(s)

Vs

1. The Director (Pension Policy),
Ministry of Personnel, Public Grievances and Pensions,
Department of Pension and Pensioners Welfare,
Lok Nayak Bhavan, Khan Market, New Delhi 110 003.

2.The Director General,
CISF, Force Head Quarters,
BlockNo.13, CGO Complex,
New Delhi 110 003.

3.The Additional Director General,
Paryavaran Bhavan,
4th Floor, B-Wing,
16, CGO Complex,
Lodhi Road, New Delhi-110 003.

4.The Deputy Inspector General
CISF, Airport South Zone HQRS,
Rajaji Nagar, Besant Nagar, Chennai - 600 090.

5.The Senior Commandant,
CISF, 10-Reserve Batallion,
Suraksha Campus Post,
RTC-Arakkonam, Vellore District, PIN Code 631 152.



6. The Regional Pay and Accounts Officer
CISF MHA, 3rd Floor, D-Link,
Rajaji Bhavan, Besant Nagar, Chennai - 600 090.

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Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records in respect of the impugned order passed by the first respondent Office Memorandum dated 26.08.2016 in No.7/5/2012-P & PW(F)/B, and consequently the impugned order passed by the fifth respondent in No.E-42099/CISF/10 TH RB (A)/ACCTS//2018/2899 dated 17.09.2018 and quash the same and direct the respondents to release the Gratuity amount of Rs.4,74,479/- (Rupees Four Lakhs Seventy Four Thousand Four Hundred and Seventy Nine Only) in favour of the petitioner.

For Petitioner(s): Mr.P.Sam Japa Singh

For Respondent(s): Mr.K.Srinivasamurthy
Senior Panel Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondents and also perused the records.

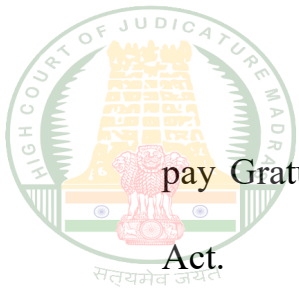


2. The petitioner, by the present writ petition, assails the action of the respondents in rejecting his application for grant of Retirement Gratuity.

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3. It is the case of the petitioner that he had joined the service of Uniformed Force namely, CISF (Central Industrial Security Force) in the position of Assistant Commandant on 23.09.2005; that while working as Commandant, he had resigned from service on 08.11.2016, which was accepted on 28.12.2016; that he was relieved from service i.e., on 29.12.2016; and that at time of his resignation, the retirement gratuity payable to him was in a sum of Rs.4,74,479/-; and that he is entitled to be paid the Gratuity amount.

4. It is the further case of the petitioner that as the respondents did not process his Gratuity payment, he had sent a representation to the respondents 2 to 5 on 07.09.2018; and that the 5th respondent, by the impugned proceedings, rejected his application for payment of Gratuity on untenable grounds; that as per the Office Memorandum (OM) dated 26.08.2016 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners Welfare, he is entitled to be paid the Gratuity amount standing to his credit on the date he is relieved from the service on resignation; and that such Gratuity payment is covered under the Payment of Gratuity Act, 1972 (hereinafter referred to as "the Act"); and thus, the denial by the respondents to



pay Gratuity amount is illegal, arbitrary and contrary to the provisions of the Act.

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5. A counter affidavit on behalf of the respondents is filed.

6. The respondents, by the counter affidavit filed contended that the petitioner had joined the service on 23.09.2005 and was relieved from the service on resignation on 29.12.2016 and thus, completed service of 11 years, 3 months and 6 days; that the petitioner, on being appointed, was covered under National Pension Scheme (NPS); that as the petitioner had resigned from service, under Rule 26(1) of the Central Civil Services (Pension) Rules, 1972 (in short “the 1972 Rules”), the service put in by him would stand forfeited; and thus, the petitioner is not entitled for being granted any Gratuity on resignation.

7. The respondents also contended that the Central Civil Services (Payment of Gratuity under National Pension System) Rules, 2021 (in short “the 2021 Rules”) were framed only in the year 2021; that till framing of rules in relation to payment of Gratuity, the 1972 Rules, were made applicable; and that even under the 2021 Rules, Rule 17 provides for forfeiture of service on resignation; that by virtue of Rule 26 of the 1972 Rules also the



service of the petitioner of 11 years, 3 months and 6 days would stand forfeited on resignation and the petitioner is not eligible either for being granted pension or to claim payment of such pension.

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8. The respondents further contended that the payment of Gratuity is allowed only in case of Retirement, Death, Invalidation or on being allowed to retire; that the petitioner having resigned from service on his own volition, is not entitled for being sanction of Gratuity amount; and that considering the aforesaid rule position, the respondents have rejected the application made by the petitioner on 07.09.2018 for grant of pension by passing the impugned order dated 17.09.2018.

9. Contending as above, the respondents seek for dismissal of the writ petition.

10. I have taken note of the respective contentions.

11. The short point that arises for consideration in this writ petition is as to whether the petitioner is entitled to payment of Gratuity on resigning from service.



12. Though the petitioner, in support of his claim of being entitled to payment of Gratuity on his resignation in a sum of Rs.4,74,479/- had enclosed the worksheet of calculation of Gratuity stated to have been issued to him by the Commandant of the 5th respondent, a perusal of the said worksheet enclosed in the material paper, firstly, shows interpolations having been made with the help of whitener by adding a word “resignation” and also as to the date mentioned there. Secondly, the date affixed by the issuing authority is 14.03.2014. Thirdly, the heading of the said worksheet indicates that the petitioner having obtained the said certificate by claiming as “retiring on 29.12.2016”, which reason is also mentioned in Serial No.5 of the said certificate as “date of retirement” and not “resignation”. Thus, the said certificate can only be considered as the certificate obtained by the petitioner from the authorities concerned, claiming to ascertain as to what would be the Gratuity amount he would be receiving, if he “retires” on 29.12.2016 and not by way of “resignation”.

13. If only the petitioner had retired on attaining the age of superannuation as per the rules or was discharged, he would become eligible to claim the Gratuity. On the other hand, the petitioner himself having given notice of resignation on 08.11.2016 and the same having been accepted by the respondents on 28.12.2016, the petitioner cannot claim he having permitted to

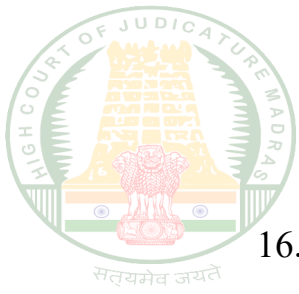


retire from service after serving the post for 11 years, 3 months and 6 days to claim Gratuity that had accrued for the said period of service.

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14. Further, as the 1972 Rules as well as the 2021 Rules clearly provides for forfeiture of service on resignation, the petitioner is not entitled to be granted any Gratuity amount, much less on the basis of worksheet obtained by him showing the said calculation as “on retiring from service” on 29.12.2016.

15. So far as the reliance placed by the petitioner on the 2021 Rules is concerned, the said Rules came into force on 30.03.2021, and on the date when the said Rules came into force, the petitioner being not in service, he cannot rely on the same to claim the benefit, if any, otherwise. Though the said Rules were made applicable to the Government Servants including the Civil Government Servants in Defence Services who are appointed on or after 01.01.2004, the petitioner not being in service on the date when the said Rules came into force, cannot rely or seek relief under the said Rules and he would be covered only by the 1972 Rules.



16. Further, as noted herein above since both the 1972 Rules as well as the 2021 Rules, provide for forfeiture of service on resignation under Rule 26 and Rule 17 respectively, the petitioner cannot claim of being eligible to count his service from September 2005 to December 2016 as eligible period for grant of Gratuity.

17. Thus, considered from any angle, the present writ petition, in the considered view of this Court, is devoid of merits and the challenge to the impugned proceeding has to fail.

18. Accordingly, the writ petition is dismissed. No order as to costs.

-07-2026

Jd

Neutral Citation: Yes/No



To

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Ministry of Personnel, Public Grievances and Pensions,
Department of Pension and Pensioners Welfare,
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Pre-Delivery Order made in

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