

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.16780 of 2015

and

M.P.Nos.1 & 2 of 2015

N.M.Ahmed Ali,
Junior Engineer,
Kadayanallur Municipality,
Tiruvellur District.

.. Petitioner

.. Vs ..

1. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.

2. The Commissioner,
Kadayanallur Municipality,
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the Director of Municipal Administration issued in Na.Ka.No.87634/2002/C2, dated 29.05.2015 and quash the same and consequently direct the respondents to settle the DCRG amount and pension eligible to the petitioner without any recovery.

For Petitioner : Mr.T.Ranganathan
For R-1 : Mrs.M.E.Raniselvam,
Additional Government Pleader
For R-2 : Mr.R.Sanjay Gandhi,
Additional Government Pleader

ORDER

With the consent of both parties, the Writ Petition itself is taken up for final disposal.

2. The petitioner was initially appointed as a Water Works Overseer in Kadayanallur Municipality in 1978. He rendered 36 years of service. He reached the age of superannuation on 31.03.2014. Initially he was not allowed to retire from service. After lot of litigations, ultimately, an order dated 27.05.2015 was passed by the first respondent permitting the petitioner to retire on 31.03.2014 with a condition that the disciplinary proceedings pending against him could be pursued under Rule 9 of

the Tamil Nadu Pension Rules.

3. While so, the first respondent, in his proceedings in Na.Ka.No.87634/2002/C2, dated 29.05.2015, passed impugned order imposing the penalty of pension cut of Rs.2,500/- per month for five years i.e., 60 months.

4. Heard the submissions made on either side.

5. Learned counsel appearing for the petitioner submits that while the petitioner was permitted to retire from service by an order dated 27.05.2015, the impugned order dated 29.05.2015 was passed subsequently, without hearing the petitioner on the findings of the Enquiry Officer as per the law laid down by the Honourable Supreme Court in MANAGING DIRECTOR, ECIL, HYDERABAD VS. B.KARUNAKAR [1993 (4) SCC 727] and as per Rule 6(2) of the Tamil Nadu Pension Rules, that contemplates hearing of the petitioner on the findings of the Enquiry Officer while imposing any penalty. Since Rule 6(2) of the Tamil Nadu Pension Rules provides for hearing before imposing cut in pension or recovery of gratuity, the petitioner shall be heard on the penalty.

6. The same is not in serious dispute.

7. Hence, the impugned order dated 29.05.2015 of the first respondent is set aside and the Writ Petition is allowed and the matter is remanded back to the first respondent to hear the petitioner on the findings of the Enquiry Officer in the disciplinary proceedings and also hear on the penalty of cut in pension or recovery of gratuity as provided under Rule 6(2) of the Tamil Nadu Pension Rules, before passing the final orders. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

सतयमेव जयते
Sub Assistant Registrar

jrl

To

1. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.

2. The Commissioner,
Kadayanallur Municipality,
Tirunelveli District.

1 cc to Government Pleader.Sr.No.28969

1 cc to Mr.T.Ranganathan , Advocate Sr.No.28656

W.P.No.16780 of 2015

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