

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION NO.32767 OF 2015

K.Sivashanmugam

.... Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Saint George Fort,
Chennai - 600 009.
2. The Director,
Fire and Rescue Services,
No.1, Greams Road, Chennai - 600 006.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondents to pay all retirement benefits to the petitioner and dispose of the representation dated 05.02.2014 within a stipulated time.

For Petitioner : Mr.A.Anusuya

For Respondents : Mr.R.Vijayakumar, AGP

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner, while working as a Divisional Officer, Fire and Rescue Service, was said to have committed an offence punishable under the provisions of the Prevention of Corruption Act and the said case, after investigation, has culminated into charge sheet which was taken on file in Special C.C.No.2 of 2003 on the file of the Chief Judicial Magistrate, Cuddalore. As the petitioner reached the age of superannuation on 30.6.2004, the first respondent vide G.O.(D) No.No.717, Home (Police - XVII) Department dated 30.06.2004, passed an order placing the petitioner under suspension and also passed an order under Rule 56(i) of the Fundamental Rules, extending the period of service.

3. The grievance expressed by the petitioner is that de hors the pendency of the Criminal Prosecution and disciplinary proceedings, he is entitled to get encashment of Special Provident Fund, unearned leave on private affairs, Special General Provident Fund, increment arrears as well as pension and in this regard, he submitted a representation dated 05.2.2014 to the respondents. Since no orders have been passed, he came forward to file this Writ Petition.

4. Learned counsel appearing for the petitioner would submit that since the petitioner was placed under suspension for the past 11 years and consequently he is suffering very much and hence prays for appropriate orders.

5. Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that since the criminal prosecution is pending in Special C.C.No.2 of 2003 before the jurisdictional Court and the petitioner was placed under suspension and his services have also been extended, the petitioner is entitled to only provisional pension and hence prays for dismissal of the Writ Petition.

6. Heard the rival submissions of both sides and perused the materials placed before this Court.

7. Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances of the case and without going into the merits of the same, permits the petitioner to submit one more representation to the first respondent along with a copy of this order and the earlier representation dated 05.02.2014 within a period of two weeks from the date of receipt of a copy of this order and the first respondent, on receipt of the same, shall consider the said representation and pass orders on merits and in accordance with law within a period of ten weeks thereafter and communicate the decision taken, to the petitioner.

8. The Writ Petition is disposed of accordingly. No costs.

9. Call the matter on 30.10.2015 for submitting report by the Chief Judicial Magistrate, Cuddalore.
sl

-s/d-

Assistant Registrar(CS-II)

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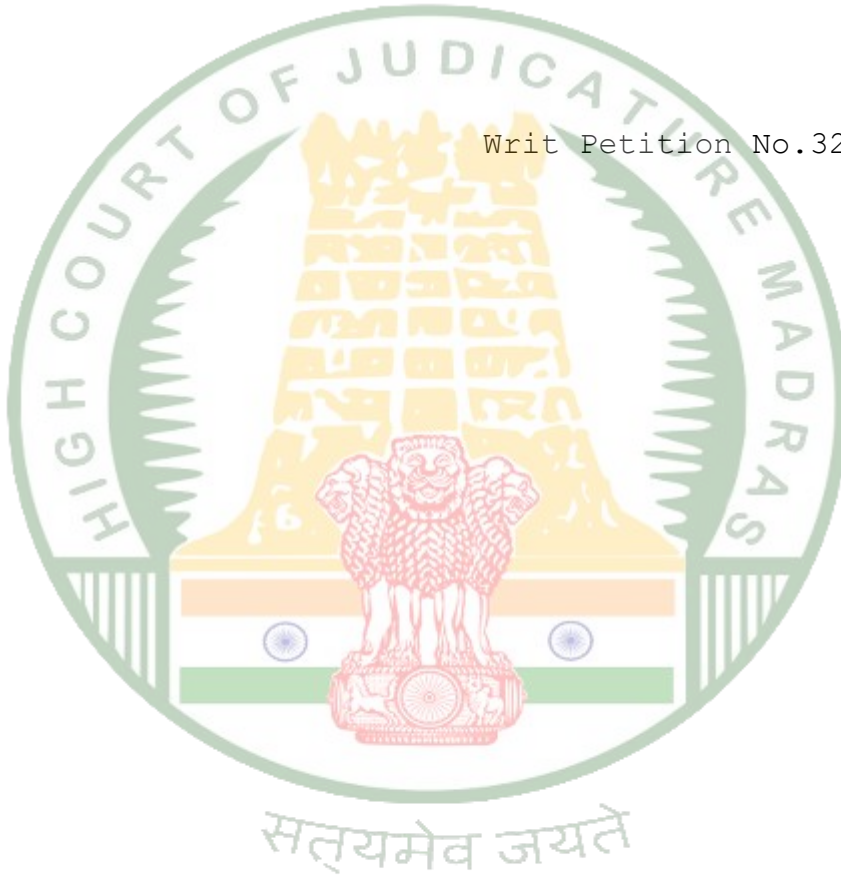
Sub-Assistant Registrar

To

1. The Secretary to Government, Home Department,
Saint George Fort, Chennai - 600 009.
 2. The Director, Fire and Rescue Services,
No.1, Greams Road, Chennai - 600 006.
- + 1 cc to M/s.A.Anusuya, Advocate SR 56733
- + 1 cc to the Govt.Pleader SR 57572

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