

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.34129 of 2015

Dr.P.Antony Raj

...Petitioner

- Vs -

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Higher Education Department,
Fort St. George, Chennai - 600 009.
2. The Director of Collegiate Education,
College Road, Chennai - 600 006.
3. The Principal,
Arignar Anna Government Arts College,
Sanyasikaradu (P.O.),
Namakkal Taluk,
Namakkal District.

...Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to pass an order permitting the petitioner to retire voluntarily from service with effect from 25.10.1993 and settle all the terminal benefits & pension by implementing the order dated 12.02.2004 made in O.A.No.6755/1993 passed by the Hon'ble Tamil Nadu Administrative Tribunal, pursuant to the petitioner's representation dated 25.07.2015.

For Petitioner : Mr.K.Raja
for Mr.N.Kolandaivelu
For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that he was appointed as Assistant Professor on 01.07.1968 and thereafter was given promotion as Selection Grade Lecturer and was working as Selection Grade Lecturer in Arignar Anna Government Arts College, Namakkal Taluk, Namakkal District. The petitioner would further state that appreciating the research done by him in "Peptide Chemistry", the State University of New York at Buffalo awarded Fellowship to him on 01.07.1988 and permission was also accorded to him by the Government vide G.O.Ms.No.820, Education Department dated 12.05.1988, to undergo higher studies abroad on condition that he shall meet all the expenses through his own sources. The petitioner went on leave for 5 years i.e. from 28.06.1988 to 22.06.1993 and the same was sanctioned as leave on loss of pay and after completing the higher studies in abroad, he joined duty as Selection Grade Lecturer in the very same college. The petitioner has also issued statutory notice dated 30.06.1993 indicating his intention to go for voluntary retirement and the same was rejected by the first respondent on 01.10.1993. The petitioner challenging the legality of the said order, filed O.A.No.6755 of 1993 before the Tamil Nadu Administrative Tribunal. The Tribunal allowing the said O.A. passed the following order viz:

"I can understand if the expenses for going to States and for his stay at States were all borne by the Government. There is no point in insisting upon the applicant to serve the Government till retirement. When the Government has not spent any single paise, when the applicant has acquired the qualifications by his own efforts and spending his own money, it is cruel to refuse the plea for voluntary retirement made by the applicant. A person who has done research and who has done post doctoral research in States now has been prevented from retiring from service on the specious plea that vigilance report has not been received and the bond has been executed by the applicant.

It seems the applicant has remitted Rs.50,000/- being the value of the bond to the Government. I am at a loss to understand as to what more the Government wants. Obviously the request for retirement, was allowed to be dealt with by clerical staff in the Secretariat. Otherwise, I do not find any justification or rational in the act of the Government in refusing the simple request of Voluntary Retirement. Therefore, a direction is given to the respondents to permit the applicant to retire voluntarily. I am told that the applicant has stopped going to the college with effect from 25.10.1993. Therefore, the applicant shall be deemed to have been permitted to retire voluntarily with effect from 25.10.1993 and the respondents are directed to settle all the terminal benefits and pension etc., according to Rules."

3. In spite of the positive order passed by the Tamil Nadu Administrative Tribunal holding that the petitioner shall be deemed to have been retired with effect from 25.10.1993 and further direction to the respondents 1 and 2 to settle his terminal benefits, it has not been done so far. The petitioner in this regard, has submitted a representation dated 15.03.2004 followed by reminders dated 10.02.2006, 09.01.2007, 18.07.2010, 06.01.2011, 25.07.2015 and followed by legal notice dated 02.09.2015 and in spite of receipt of the same, the respondents did not care to send any reply and hence the petitioner has come forward to file this writ petition.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate accepts notice on behalf of the respondents 1 to 3.

5. The Personnel and Administrative Reforms (A) Department issued order in G.O.(Ms.)No.99, dated 21.09.2015 giving instructions as to the procedure for dealing with grievance petitions. It is relevant to extract paras 3 to 5, which reads as follows:

"3. Accordingly, the following revised procedures issued for dealing with the

grievance petition received through online and off-line in the Government Offices:-

i. An acknowledgement should go immediately and at the most within three days of the receipt of grievance petitions.

ii. Grievance itself should be redressed within a maximum period of one month of its receipt and it should be with a speaking order in the event of a redressal or rejection if found necessary.

iii. The citizens approaching the Government departments with their grievance petitions should be informed of the progress of his/her grievance.

iv. In case, for some reason, additional time is required for its finalization, the person, who has given grievance petition, should be informed in writing for the extended period of time for its finalization.

v. In case, it is not found feasible to accede to his/her request, a reasoned reply may be issued to the aggrieved citizen within the stipulated time limit of one month.

4. All the Government offices are directed to strictly adhere to the above said procedures for dealing with the grievance petition received in the Government Offices. All the Government office are requested to communicate these instructions for compliance to the subordinate offices also.

5. Necessary amendments to the Tamil Nadu Secretariat Office Manual and the Tamil Nadu Government Office Manual will be issued separately. The Commissioner for Revenue Administration, Chepauk, Chennai-5

is requested to send necessary draft amendment to the Tamil Nadu Government Office Manual."

6. It is rather unfortunate that the respondents 1 and 2 did not care to take any action or pass orders on the representations submitted by the petitioner, though as per the order of the Tribunal, he is deemed to have retired voluntarily from service w.e.f 25.10.1993.

7. In the result, the writ petition is disposed of and the respondents 1 and 2 are directed to consider the above said representations as well as the legal notice sent on behalf of the petitioner dated 02.09.2015, on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. In the event of respondents 1 and 2 could not comply with the order, it is open to the petitioner to take appropriate legal action including contempt action by filing a contempt petition under the Contempt of Courts Act, 1971. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Collegiate Education,
College Road,
Chennai - 600 006.

3. The Principal,
Arignar Anna Government Arts College,
Sanyasikaradu (P.O.),
Namakkal Taluk, Namakkal District.

1 CC to Mr.N.Kolandaivelu, Advocate SR.No. 58277

1 CC to the Government Pleader, SR.No. 58652

W.P.No.34129 of 2015

VGI (CO)
PSI (30.10.2015)



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