

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.9882 of 2015 and
M.P.No.1 of 2015

R.Sakthi

...Petitioner

Versus

1. The Director of Survey and Land Records,
Chepauk, Chennai 600 005

2. The Assistant Director of
Survey and Land Records,
Collectorate, Dharmapuri

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents to disburse the petitioner's retirement benefits like Provident Fund, Special Provident Fund, Gratuity, Death cum Retirement Gratuity Benefits (DCRGB) and Leave Salary.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

Heard both sides. सत्यमेव जयते

2. The petitioner was working as a Sub-Inspector of Survey in the Taluk Office, Pennagaram, Dharmapuri District. While so, he was arrested by the Vigilance and Anti-Corruption Police. A criminal case is pending under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act against the petitioner. By order dated, 01.04.2008, he was suspended from service by the 2nd respondent.

2. By invoking Rule 56 (1)(c) of the Fundamental Rules, the petitioner was not permitted to retire on attaining the age of superannuation and was retained in service, by the proceedings of the second respondent, dated 30.05.2014. The petitioner has filed this Writ Petition seeking for a direction to disburse the retirement benefits including DCRG.

3. The learned counsel for the petitioner placed reliance on a decision of the Hon'ble Apex Court in Civil Appeal No.6770 of 2013 dated 14.08.2013.

4. I have heard the learned counsel for the petitioner. I have also perused the judgment.

5. In the said judgment, the concerned Government servant, who was in the service of the State of Jharkhand was permitted to retire on 31.08.2002 on reaching the age of Superannuation. In those circumstances, by considering the concerned Pension Rule, he was granted 90% of the pension. But, he was not paid gratuity. In those circumstances, the Apex Court directed the authorities to pay the terminal benefits. The said case could not be applied to the facts of the present case, since the petitioner herein was not permitted to retire and the consequence is that in the event of his conviction, he could even be dismissed from service. In that event, he could not get pension and DCRG. As far as other benefits, such as Special Provident Fund, General Provident Fund and Earned Leave Benefits are concerned, the petitioner is entitled to get the same, even if he is dismissed from service.

6. In view of the above, while rejecting the claim for pension and DCRG, the first respondent is directed to settle the General Provident Fund, Special Provident Fund and leave encashment to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki/mrp
To

1. The Director of Survey and Land Records,
Chepauk, Chennai 600 005.
2. The Assistant Director of Survey and Land Records,
Collectorate, Dharmapuri.

+ 1 cc to M/s. C. Prakasam, Advocate SR.19049
+ 1 cc Government Pleader Sr.19008

PPA(CO)
EU 22.04.2015