



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD)No.14047 of 2015

M.Karpoor Sundaram

... Petitioner

Vs.

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Chennai - 1.

2.The Commissioner,
Municipal Administration,
Chennai - 5.

3.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to disburse the benefits such as surrender leave salary, gratuity (DCR), earned leave salary, special provident fund and family benefit fund which payable to the petitioner by considering his representation dated 18.04.2015 and pass such further or other order as this Court may deem fit and proper in the circumstances of the case.

For Petitioner ... Mr.S.Anwar Sameem

For Respondents ... Mr.K.P.Krishna Das
Government Advocate

O R D E R

This Writ Petition has been filed by M.Karpoor Sundaram seeking issuance of writ of mandamus directing the first respondent Additional Chief Secretary, Government of Tamil Nadu, Municipal Administration and Water Supply Department to consider his pending representation dated 18.04.2015 wherein he sought for disbursement of service benefits namely gratuity(DCR), Earned Leave Salary, Special Provident Fund.

2. By consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.



4. The short facts of the case are as follows:

i) The petitioner joined the first respondent Department as Sanitary Supervisor on 20.04.1966 and was promoted as Sanitary Inspector in the year 1993. After rendering 36 years of service in the respondent Department, the petitioner reached the age of superannuation on 28.02.2002.

ii) Before 10 days to reach superannuation, he has been falsely implicated in a criminal case in Crime No.1 of 2002 on the file of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Ramanathapuram, which was registered for the offence under Sections 7 and 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act. Due to the pendency of criminal case, the petitioner was not allowed to retire from service vide proceedings in ROC No.64763/2001/3 dated 27.02.2002 by the second respondent and the petitioner was retained in service.

iii) After completing of investigation, a charge sheet has been laid and the same was taken on file in Spl.C.C.No.2 of 2004 and after trail, the said case was also ended in conviction by a judgment dated 21.03.2012 sentencing the petitioner to undergo rigorous imprisonment for 1 year and to pay a fine of Rs.1,000/-. As against the same, the petitioner has preferred Crl.A.(MD) No.62 of 2012 and this Court by order dated 12.04.2012 has suspended the sentence imposed on the petitioner and the appeal is pending on the file of this Court.

iv) In the meanwhile, after conviction, the second respondent issued Show Cause Notice dated 16.08.2012 calling upon the petitioner to give explanation as to why the petitioner should not be terminated from service based on conviction awarded in Spl.C.C.No.2 of 2004 dated 21.03.2012 by the criminal court and the petitioner submitted a detailed explanation. But not satisfying with the same, the second respondent herein vide R.C.No.1359/2005/OP.4 dated 28.12.2012 dismissed the petitioner from service.

5. In this background, the learned counsel for the petitioner submitted that grievance of the petitioner that even though the petitioner was dismissed from service, his legal dues such as Gratuity(DCR), surrender leave salary, earned leave salary, Special Provident Fund and family benefit fund are liable to be given to the petitioner as that are all his contribution during the service of the petitioner.

6. The learned counsel appearing for the petitioner would further submit that the petitioner has nothing to do with his conviction and sentence and the petitioner can prove his innocence in the appeal which is pending before this Court in Crl.A.(MD)No.62 of 2012 and he sought for time to consider the pending representation.

7. In view of the above, this Court hereby directs the first respondent to consider the pending representation dated 18.04.2015 and dispose of the same within a period of four weeks from the date of receipt of copy of this order as he is entitled to only three benefits i.e as Special Provident Fund, Surrender Leave Salary and Gratuity(DCR).



8. With the above direction, this Writ Petition is disposed of.

No costs.

WEB COPY

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Chennai - 1.

2.The Commissioner,
Municipal Administration,
Chennai - 5.

3.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

+1cc to M/S.T.Antony Arul Raj, Advocate in SR.No 44757

+1cc to Special Government Pleader in SR.No. 45190.

TS/05.10.2015/3P - 7C NGM-SS/SAR -II

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