



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.09.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.17588 of 2016

and

W.M.P (MD) No.12712 of 2016

M.Moorthi

... Petitioner

vs.

1)The District Collector,
Collectorate,
Tuticorin District.

2)The Sub Collector,
Sub Collector Office,

Tuticorin.

3)The Tahsildar,
Tuticorin Taluk,
Tuticorin District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order passed by the 2nd respondent in his proceedings in Na.Ka.Aa1/2577/2015, dated 12.06.2016 and quash the same as illegal and consequently direct the respondents to pay the provisional (Anticipatory) gratuity at 80% of Rs.5,16,639.00.

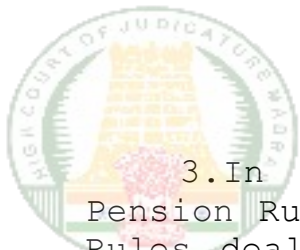
For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.S.Kumar, Additional Government Pleader

ORDER

This Writ of Certiorarified Mandamus has been filed, calling for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.Aa1/2577/2015, dated 12.06.2016, and quash the same as illegal and consequently direct the respondents to pay the provisional (Anticipatory) gratuity at 80% of Rs.5,16,639.00/-.

2.Originally, in W.P(MD)No.6306 of 2016, dated 31.03.2016, this Court has directed the respondents to consider the representation dated 14.03.2016 under which, the petitioner sought for payment of his retirement benefits, based on which, this impugned order has been passed.



3. In the impugned order, Rule 60(1)(c) of the Tamil Nadu Pension Rules has been quoted. Rule 60 of the Tamil Nadu Pension Rules deals with grant of provisional pension where departmental or judicial proceedings may be pending. As per Rule 60(1)(c), no gratuity shall be authorised to the Government servant until the conclusion of such proceedings and issue of final orders thereon.

4. The learned counsel for the petitioner relies upon the proviso to subsection (c) of Rule 60(1), under which, it has been stated that when departmental proceedings are pending on account of administrative lapses, this proviso would be applicable and it is not applicable in respect of the disciplinary proceedings initiated on account of any financial loss being caused to the Government.

5. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner cannot get the benefit of the proviso to Rule 60(1)(c), because, he has not been permitted to retire, whereas, he is retained in service to face the disciplinary proceedings.

6. The legal position submitted by the learned Additional Government Pleader is correct, as the petitioner is not permitted to retire from service and therefore, he cannot claim the benefit of the proviso to Rule 60(1)(c). However, the fact remains that the petitioner is not able to get the retirement benefits only on account of the pending proceedings.

7. It is submitted that enquiry has not even commenced in respect of the charges made as against the petitioner herein. Under such circumstances, the respondents are directed to conclude the enquiry within three months from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is disposed of. No costs. Consequently, W.M.P(MD)No.12712 of 2016 is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1) The District Collector, Collectorate, Tuticorin District.

2) The Sub Collector, Sub Collector Office, Tuticorin.

3) The Tahsildar, Tuticorin Taluk, Tuticorin District.

+One cc to Mr.K.Seemaraj, Advocate, SR.No.53453

+One cc to The Special Government Pleader, SR.No.53934

nbi

RL/6C/2P/DB/24.10.2016