

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31981 of 2017

J.Muthaiah Selvaraj

.. Petitioner

-vs-

1. The Principal Secretary to Government
Home (Pol.VI) Department
Fort St.George
Chennai 600 009
2. The Director General of Police
Mylapore, Tamil Nadu
Chennai 600 004
3. The Superintendent of Police
Virudhunagar District
Virudhunagar

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for records connected with the proceedings issued in Rc.No.258048/Con3(3)/1995 dated 30.09.2017 passed by the second respondent and quash the same and consequently direct the respondents to disburse the entire pensionary benefits admissible to the petitioner.

For Petitioner :: Mr.S.Ilamvaludhi

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader

WEB COPY
ORDER

This writ petition is directed against the show cause notice dated 30.9.2017 calling upon the petitioner to state whether he accepts the proposed punishment of reduction of Rs.1000/- per month for 60 months from his pension under Rule 9 of the Tamil Nadu Pension Rules, 1978, on the three counts of misconduct, which were established by the enquiry officer.

2. Learned counsel for the petitioner submitted that based on the report of the enquiry officer dated 29.10.2007 holding the charges proved, the petitioner was not permitted to retire from service on reaching the age of superannuation on 31.10.2007, in view of the pendency of the departmental proceedings. However, the disciplinary authority finally imposed the punishment of postponement of increment for two years with cumulative effect by order dated 6.2.2008. The disciplinary authority has also stated in the said order that since the petitioner had crossed the date of superannuation on 31.10.2007 and not allowed to retire and was under suspension, the punishment order could not be implemented and therefore ordered to recover the equivalent monetary value of the punishment. Since the Deputy Inspector General of Police, Madurai Range had reviewed the final orders passed by the Superintendent of Police, Virudhunagar District in proceedings No.A2(2)/2679/2008 dated 8.7.2008, the disciplinary authority, in his proceedings dated 8.5.2012 issued in C.No.F1/PR.07/1996, had revoked the suspension and allowed the petitioner to retire from service on superannuation on 31.10.2007 A.N., without prejudice to the disciplinary action pending in P.R.No.7/96 under the Tamil Nadu Pension Rules. The same was also served on him. Finally, on examination of the P.R.file, it was noticed that the above punishment cannot be implemented, because the same was passed after his retirement. In that view of the matter, a show cause notice dated 3.7.2014 was issued by the second respondent under Rule 15-A(1)(ii) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 to proceed with the case under Rule 9 of the Tamil Nadu Pension Rules, 1978 by cancelling the punishment which cannot be implemented. Thereafter, by the impugned show cause notice dated 30.9.2017, the second respondent has proposed to impose the punishment of reduction of Rs.1000/- per month for 60 months from his pension under Rule 9 of the Tamil Nadu Pension Rules, 1978.

3. When this is the fact of the case, it is not known why the petitioner has come to this Court with the writ petition for nothing. The reason is that when the petitioner, as mentioned above, was imposed with the punishment of postponement of increment for two years with cumulative effect by order dated 6.2.2008, he had already reached the age of superannuation on 31.10.2007. That shows that the said punishment cannot be implemented. In any event, when the second respondent, in lieu of the punishment of postponement of increment for two years with cumulative effect, had issued the impugned show cause notice dated 30.9.2017 proposing to impose the punishment of reduction of Rs.1000/- per month for 60 months under Rule 9 of the Tamil Nadu Pension Rules, in all fairness, the petitioner should not have opposed the same, as he was found guilty of the

charges under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955. Therefore, this Court does not find any merit whatsoever in this writ petition. However, the learned counsel for the petitioner requested this Court to direct the second respondent to pass a final order in this regard. Considering the fact that the petitioner retired from service on reaching the age of superannuation on 31.10.2007, there will be no impediment for the second respondent to pass final orders. Accordingly, the second respondent is hereby directed to pass final orders within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands dismissed. Consequently, W.M.P.Nos.35140 & 35243 of 2017 are also dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ss
To

1. The Principal Secretary to Government
Home (Pol.VI) Department
Fort St.George
Chennai 600 009
2. The Director General of Police
Mylapore, Tamil Nadu
Chennai 600 004
3. The Superintendent of Police
Virudhunagar District
Virudhunagar

+1cc to Mr.S.Ilamvaludhi, Advocate, S.R.No.87962

+1cc to the Government Pleader, S.R.No.88555

WEB COPY

W.P.No.31981 of 2017

CS/02/01/18