

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.14420 of 2014

J.Balakrishnan

.. Petitioner

Vs

1. The Government of Tamil Nadu,
rep by the Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St. George.
Chennai-600 009.

2.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

3.The Joint Director,
Local Fund Audit,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to pay the DCRG and all other withheld retirement benefits to the petitioner with interest as per the Rules and grant all consequential benefits.

For Petitioner : Mr.P.Manoj Kumar

For R1 : Mr.A.Rajaperumal, AGP

For RR2&3 : Mr.Karthikaa Ashok

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O R D E R

The relief sought for in this writ petition is for a direction to the respondents to pay DCRG and all other withheld retirement benefits to the petitioner with interest as per the Rules and also grant all consequential benefits.

2. The learned counsel for the writ petitioner states that the writ petitioner was employed as Assessor in the respondent Corporation and he was allowed to retire from service without prejudice to the pending disciplinary proceedings with effect from 31.05.2011. The writ petitioner was initially appointed as Short-hand Typist on 07.05.1979 and promoted as Assistant and thereafter, he was promoted to the post of License Inspector and further promoted to the post of Assessor in the year 2005. However, the disciplinary proceedings were initiated against the petitioner and after conducting a domestic enquiry, final order was passed by the Commissioner, Corporation of Chennai on 30.11.2011 imposing a punishment of stoppage of increment without cumulative effect for one year. The writ petitioner preferred an appeal to the Government and the Government considered the appeal and passed orders in G.O.Ms.No.20, Municipal Administration and Water Supply Department dated 17.01.2013, setting aside the order of punishment and directed the Commissioner, Corporation of Chennai to initiate appropriate action under the Pension Rules. Subsequently, the Government initiated disciplinary action under the Pension Rules and framed charges against the petitioner and the writ petitioner has also submitted his explanation denying the charges. However, a punishment of cut in pension of Rs.1500/- per month for a period of two years, was imposed on the writ petitioner by proceedings dated 20.12.2013.

3. The learned counsel for the writ petitioner states that no other departmental proceedings are pending against the writ petitioner.

4. The learned Additional Government Pleader appearing on behalf of the Corporation of Chennai states that on account of the audit objection pending against the writ petitioner, DCRG payable to the petitioner has not been settled. However, the audit objection raised in the year 2002, had not been acted upon and in fact no action has been initiated against the writ petitioner in this regard.

5. In the absence of any action initiated based on the audit objection, the respondents cannot plead that DCRG has not been settled on account of pendency of audit objection for the past 15 years, and the same cannot be a ground for not settling the DCRG to the writ petitioner. Now after a lapse of more than 14 years, there is no point in allowing the respondents to proceed against the writ petitioner on the basis of the audit objection raised in the year 2002. It is left open to the respondents to initiate appropriate departmental action against the responsible officials, who have not taken appropriate steps on the audit objection raised in the year 2002. However, the writ petitioner cannot be penalised at this point of time by

withholding his DCRG amount. This apart the disciplinary proceedings initiated against the writ petitioner has been concluded and a final order of punishment was imposed by the Government as cited supra.

6. The learned counsel for the writ petitioner states that as on today no other disciplinary proceedings or charges are pending against the writ petitioner.

7. Considering the facts and circumstances of the case, the respondents are directed to settle the DCRG in full due and payable to the writ petitioner, in accordance with the Rules within a period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is directed to submit necessary documents if sought for by the respondents.

8. In view of the above, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St. George.
Chennai-600 009.

2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

3. The Joint Director,
Local Fund Audit,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

+1cc to Mr.P.RAJENDRAN, Advocate, S.R.No. 79491

+1cc to M/S.KARTHIKA ASHOK Advocate, S.R.No. 97148

W.P. No.14420 of 2014

NM(CO)
TR(18/12/2017)