IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.2402 of 2017

V.Anbalagan ... Petitioner

Vs.

1. The Government of Tamil Nadu
   Rep. By Secretary to Government,
   Commercial Taxes and Registration Dept.,
   Secretariat, Chennai - 600 009.

2. The Inspector General of Registration,
   Chennai- 600 028.

3. The Principal Accountant - General (A & E),
   Tamil Nadu, Chennai - 18. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus, directing the respondents to disburse to the petitioner within a time frame (i) the provisional pension from 01.05.2010, (ii) Encashment of Earned leave at credit, (iii) Special Provident Fund, consequent on the petitioner retirement on 30.04.2010 A.N. Without prejudice to the pending disciplinary proceedings and (iv) Arrears of pay in the post of Assistant Inspector - General of Registration from the date of petitioner promotion i.e.,19.02.2009 till 30.04.2010, with interest on all the delayed payments.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader
for R1 & R2
Mr.V.Vijayashankar for R3

O R D E R

By consent, this writ petition is taken up for final disposal. Mr.K.Dhannjayan, learned Special Government Pleader accepts notice on behalf of respondents 1 and 2 and Mr.V.Vijayashankar, learned counsel accepts notice on behalf of the third respondent.

2. The petitioner joined the service as a Sub Registrar, Grade II on 17.10.1977 and got his promotion as Sub Registrar, Grade I and got his further promotion as District Registrar, during the year 1993 and later on, promoted as Assistant Inspector General of Registration on 19.02.2009. The petitioner was about to be empaneled for promotion to the post of Deputy Inspector - General of Registration during 2009-2010, visited with the disciplinary proceedings under Rule 17 (b) of the Tamil Nadu Civil Services (D&A) Rules, vide proceedings of the Inspector General of Registration dated 12.02.2010 and the said proceedings have not been finalised so far. The petitioner has also filed W.P.No.6650 of 2010, challenging legality of the disciplinary proceedings and pendency of the same, vide G.O (ID) No.148 Commercial Taxes and Registration Department, dated 30.04.2010 he was permitted to retire from service on 30.04.2010 without prejudice to the pending disciplinary proceedings and sanction has been accorded for payment of provisional pension to the petitioner with effect from 01.05.2010.

3. The grievance expressed by the petitioner is that though he was permitted to retire from service without prejudice to the pendency of the disciplinary proceedings, despite the orders sanctioning provisional pension, it has not been paid to him right from 01.05.2010 and in this regard, he has also submitted a representation dated 26.10.2016 to the first respondent and though it was received and acknowledged, it is yet to be favoured with any kind of response and hence, came forward to file this writ petition.

4. The learned counsel for the petitioner has drawn the attention of this Court to the order dated 21.07.2015, made in W.P.No.21750 of 2015 [T.L.Nageswara Rao Vs. The District collector, Thiruvallur] and would submit that this Court, in the above cited order, had observed that the terminal benefits such as GPF, SPF, Encashment of Earned and Un-Earned Leave cannot be withheld by the State, even assuming that the concerned employee was dismissed from service and the said order was put to challenge in W.A.No.458 of 2016 by the official respondents and it was also dismissed on 13.04.2016 and as such, there cannot be any impediment on the part of the respondents to confer him the said benefits and prays for appropriate orders.

5. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for respondents 1 and 2 submits that in the event of the disciplinary proceedings culminating into dismissal from service, the petitioner is not entitled to any benefits and prays for dismissal of this writ petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. Though the petitioner prayed for the larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to consider and dispose of the petitioner's representation dated 26.10.2016 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the respondents 2 and 3.

8. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Secretary,
   Govt. of Tamil Nadu
   Commercial Taxes and Registration Dept.,
   Secretariat, Chennai - 600 009.

2. The Inspector General of Registration,
   Chennai- 600 028.

3. The Principal Accountant - General (A & E),
   Tamil Nadu, Chennai - 18.

+1cc to Mr.M.Ravi, Advocate, S.R.No.6594
+1cc to the Government Pleader, S.R.No.6434

Writ Petition No.2402 of 2017

PA(CO)
CA(08/02/2017)