

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28762 of 2014
and
M.P.Nos.1 & 2 of 2014

S.Francis

... Petitioner

Vs.

1.The District Collector,
Erode District.

2.The Revenue Divisional Office,
Erode District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent pertaining to his proceedings in Na.Ka.8806/2008 A2 dated 20.06.2014, quashing the same as illegal.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.A.Raja Perumal
Additional Government Pleader

O R D E R

The relief as such sought for in this writ petition is to call for the records in pursuant to the orders passed by the second respondent in proceedings dated 20.06.2014, rejecting the terminal and retirement benefits, on account of the order of suspension issued against the writ petitioner in the event of his retirement and to quash the same.

2.The learned counsel appearing for the writ petitioner states that on account of certain allegations a criminal case was registered against the writ petitioner under the provisions of the Prevention of Corruption Act and he was arrested on 17.09.2008 and consequently, placed under suspension with effect from 17.09.2008, itself. The writ petitioner was due to retire

from service on 28.02.2010, on attaining the age of superannuation. However, he was not permitted to retire from service on 28.02.2010 and his services were retained under Rule 56(1)(c) of the Fundamental Rules and thus, the writ petitioner is allowed to continue in service and accordingly, his terminal benefits are not settled.

3.The learned counsel for the writ petitioner states that though, the authorities have power to withhold the terminal and retirement benefits, on account of the order of suspension, the Courts have repeatedly held that the contribution of the writ petitioner in respect of the gratuity and other encashment and leave benefits can be settled. In this regard, this Court also passed an order on 02.06.2015 in W.P.No.15457 of 2015 and the above said order was taken by way of an appeal before the Hon'ble Division Bench in a Writ Appeal No.207 of 2016 wherein the order passed in that Writ Petition was confirmed and the Writ Appeal was dismissed. The State preferred SLP (C) No.016229 of 2016 and the same was also dismissed on 06.07.2017.

4.Thus, the respondents are directed to disburse the personal contribution of the writ petitioner including Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave as early as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

5.Accordingly, the writ petition stands closed. However, there is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Erode District.

2.The Revenue Divisional Office,
Erode District.

+1cc to Mr.C.Prakasam, Advocate SR.No.90226 dt.11.1.2018

NMI (CO)

sm:3.1.2018

W.P.No.28762 of 2014