IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19672 of 2014

R.Sethubalan ..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: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondent to pay the unsettled retirement benefits of DCRG, Pension and Pension arrears, Commutation of Pension and SPFGS to the petitioner with interest as per Rules and grant consequential benefits.

For Petitioner :Mr.P.Manoj Kumar

For Respondents :Mr.A.Raja Perumal – R1
Addl.Govt.Pleader

Mrs.Karthika Ashok – R2 & R3

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O R D E R

The relief sought for in this Writ Petition is to direct the respondent to pay the unsettled retirement benefits of DCRG, Pension and Pension arrears, Commutation of Pension and SPFGS to the petitioner with interest as per Rules and grant consequential benefits.

2.The learned counsel appearing for the writ petitioner submitted that the petitioner was working as Assistant Revenue Officer in the Corporation of Chennai and he was due for retirement on 31.12.2008. However, the petitioner was not allowed to retire from service on account of the pending disciplinary proceedings. Subsequently, he was allowed to retire from service with effect from his original date of retirement on 31.12.2008, by proceedings dated 22.05.2013. Thereafter, the disciplinary proceedings initiated against the writ petitioner was concluded and the punishment of cut in pension was imposed.

3.The learned counsel contended that all other terminal benefits except DCRG and arrears of pension were settled in favour of the writ petitioner and due to audit objection of the year 2008, DCRG and arrears of pension have not been settled.

4.In this regard, the learned Standing Counsel appearing on behalf of the Corporation of Chennai states that on account of the audit objection against the writ petitioner in the year 2008, DCRG and arrears of pension were not settled to the writ petitioner.

5.However, the audit objection so raised in the year 2008, had not been acted upon and in fact no action has been initiated against the writ petitioner in this regard. In the absence of any action initiated based on the audit objection, the respondents cannot plead that DCRG and arrears of pension have not been settled on account of audit objection. Pendency of audit objection for the past about nine years cannot be a ground for not settling the DCRG and arrears of pension. Further, now after a lapse of many years, there is no point in allowing the respondents to proceed on the basis of the audit objection of the year 2008 and it is left open to the respondents to initiate appropriate action against the official concerned for not taking appropriate steps on the audit objections. However, the writ petitioner cannot be penalised at this point of time in respect of the settlement of DCRG and arrears of pension. This apart, the disciplinary proceedings initiated against the writ petitioner was concluded and the amount of punishment of cut in pension was also deducted from the writ petitioner. The learned counsel for the writ petitioner states that as on date no disciplinary proceedings or charges are pending against the writ petitioner.

6.Considering the facts and circumstances of the case, the respondents are directed to settle the DCRG and arrears of pension, due to the writ petitioner in accordance with the Rules, within a period of twelve weeks from the date of receipt of a copy of this order.

The Writ Petition stands disposed of accordingly. No costs.

23.10.2017

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To
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S.M.SUBRAMANIAM, J.,

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