

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-12-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22508 of 2013

G.Sivakumar

.. Petitioner

-VS-

1.The State of Tamil Nadu,
Represented by its Commissioner
and Secretary to Government,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Fort St. George,
Chennai-600 009.

2.The Tamil Nadu Khadi and Village Industries Board,
Represented by its Chief Executive Officer,
Kuralagam,
Chennai-600 108.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent's show cause memo bearing reference No.47110/E3(3)/2000 dated 18.6.2004 and quash the same and to direct the second respondent to release the petitioner a sum of Rs.50,000/- illegally withheld contrary to the Tamil Nadu Pension Rules, together with interest at 18% per annum.

For Petitioner - Mr.C.Saravanan

For Respondent-1 - Mr.K.Thangapandi,
Government Advocate.

For Respondent-2 - Mr.S.K.Bose.

ORDER

The grievance of the writ petitioner is that similarly placed persons like that of the writ petitioner have been considered in respect of ratification of the alleged loss amount and the case of the writ petitioner alone is discriminated.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the impugned show cause notice is time barred and as per Rule 9 of the Pension Rules and show cause notice cannot be issued.

3. However the fact remains that the writ petitioner was retired from service on 31.10.2002 and the impugned show cause notice was issued on 18.6.2004. The learned counsel for the writ petitioner is of the opinion that the incident took place long back and therefore a show cause notice ought not to have been issued by the respondents.

4. The learned counsel, appearing on behalf of the respondents, states that it is a continuation of the earlier proceedings and in respect of the alleged loss, notices were issued to the writ petitioner even in earlier occasions.

5. May that it be, this Court cannot go into the merits and the demerits of the matter since the challenge in this writ petition is a show cause notice. A show cause notice can be challenged on limited grounds. No doubt, the learned counsel for the writ petitioner states that under the Pension Rules, the show cause notice is invalid.

6. However, the respondents is of the opinion that it is the continuation of the earlier proceedings issued in the year 2001. Thus, it is a conversion of the proceedings after retirement under the Pension Rules and therefore, it is for the writ petitioner to adjudicate the same in the manner known to law.

7. The grounds raised on the merits in this regard by the writ petitioner are that the cases of the similarly placed persons were considered and the allegations of financial loss are settled or waived. This being the factum, the case of the writ petitioner also to be considered on par with the other colleagues in the same Department.

8. In this regard, the writ petitioner is at liberty to submit his explanations/objections along with all relevant documents to the respondents and it is for the respondents to consider the materials available on record and take a decision and pass orders in accordance with law as early as possible and without causing much delay in this regard.

9. The learned counsel for the writ petitioner made a

submission that the writ petitioner was retired from service in the year 2002 and he is unable to get his terminal and pensionary benefits. In view of the long pendency of the matter, the respondents are directed to pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner and Secretary to Government,
State of Tamil Nadu,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Fort St. George,
Chennai-600 009.

2.The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam,
Chennai-600 108.

+1 cc to Mr.C.Saravanan Advocate sr 86654

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