

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.8.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.7913 of 2015

V.Kannuchamy

.. Petitioner

Vs.

1. Union of India
rep. by its Secretary
Ministry of Personnel, Public Grievance
and Pension
New Delhi.
2. Union Public Service Commission
rep. by its Chairman
New Delhi.
3. The Chief Secretary
Secretariat
Fort St. George
Chennai 600 009.
4. The Registrar
Central Administrative Tribunal
Chennai 600 104.

.. Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order dated 30.12.2014 passed by the Central Administrative Tribunal in Contempt Petition No.310/00080/2014 with Miscellaneous Application Nos.310/00635&00636/2014 in Original Application No.226/2012 and quash the same and consequently, direct the respondent authorities to grant all retirement benefits to the petitioner within a stipulated time.

For Petitioner	:	Mr.S.Thanka Sivan
For Respondent-1	:	Mr.A.Kumaraguru, CGPSC
For Respondent-2	:	Mr.V.Chandrasekaran
For Respondent-3	:	Mr.R.Prathap Kumar, Addl.G.P.

O R D E R
(Made by Huluvadi G.Ramesh, J)

The petitioner herein, while serving as Collector of Chennai, alleged to suppressed the fact relating to an order passed by this Court to evict one Vijayarajan by due process of law, as he was unauthorisedly occupying Government poramboke Anadheenam lands and issued patta in favour of the said Vijayarajan. Therefore, disciplinary proceedings was initiated, enquiry was conducted, charges were proved and thereafter, the petitioner was directed to submit his explanation to the enquiry report.

2. The third respondent sought the advise of the second respondent and in the meantime, the petitioner filed O.A.No.167 of 2011 before the Central Administrative Tribunal for a direction to the respondents therein to promote him forthwith, without reference to the pending disciplinary proceedings. The Tribunal directed the respondents therein to pass final order in the disciplinary proceedings within a period of four weeks. Thereafter, on the application filed by the respondents therein seeking six months time to implement the order of the Tribunal, the Tribunal granted six months time to the respondents therein.

3. In the meanwhile, the petitioner retired on superannuation pending disciplinary proceedings. As the disciplinary proceedings were not concluded, the petitioner filed O.A.No.226 of 2012 seeking a direction to the respondent authority to grant promotion from the date of charge memo, which was disposed of directing the respondents to pass final orders within two weeks, failing which, the proceedings would be deemed to be terminated and the petitioner would be entitled to all the benefits. Even thereafter, the respondents have not concluded the disciplinary proceedings which led to the filing of contempt petition. Subsequently, the respondents 1 and 3 filed Miscellaneous Application seeking to condone the delay in filing an application for seeking extension of time to comply. The Tribunal, taking note of all the facts and circumstances of the case, directed the respondents therein to release 50% of the gratuity amount immediately. Aggrieved by the said order, the petitioner has come up with the above writ petition.

4. Admittedly, the respondent State has filed the Miscellaneous Application for condonation of delay in filing an application for seeking extension of time, that too, after a period of eight months of passing of final order in O.A., which in other words, for modification of the order of the Tribunal, while the petitioner herein has moved contempt petition for non implementing of the order and for payment of the service

benefits, since the petitioner has retired from service by then. While dealing with the matter, the Tribunal has closed the contempt application, however, we are not expressing any opinion on that issue. But, the Tribunal has allowed the Miscellaneous Application and directed the respondent to go ahead with the disciplinary proceedings. This point was agitated on the ground that after disposal of the main O.A. granting a time limit to conclude the disciplinary proceedings, failing which, the disciplinary proceedings would be deemed to be terminated, reviving the disciplinary proceedings after a period of eight months is non est in law.

5. In the above facts and circumstances of the case, we are of the considered view that the disciplinary proceedings have become redundant, in view of the fact that the disciplinary proceedings got terminated by virtue of the order of the Tribunal, which has attained finality as the same was not challenged by any of the parties and that once the order has attained finality, the Tribunal cannot review the said order and therefore, the impugned order of the Tribunal is liable to be set aside. Accordingly, the impugned order is set aside and since the petitioner has retired from service, we direct the respondent State to settle all the benefits to the petitioner to which he is entitled to, in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is disposed of with the above direction. However, there shall be no order as to costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kpl

To

1. Union of India rep by The Secretary
Ministry of Personnel,
Public Grievance and Pension
New Delhi.
2. The Chairman
Union Public Service Commission
New Delhi.

3. The Chief Secretary
Secretariat
Fort St. George
Chennai 600 009.

4. The Registrar
Central Administrative Tribunal
Chennai 600 104.

+lcc to Mr.A.Kumaraguru, Advocate, S.R.No.60347
+lcc to Mr.S.Thangasivan, Advocate, S.R.No.60606
+lcc to Mr.V.Chandrasekaran, Advocate, S.R.No.60935
+lcc to Government Pleader SR.No.61307

W.P.No.7913 of 2015.

SJ(CO)
GN(15/09/2017)



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