

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8103 of 2018

R.Niragulathan

.. Petitioner

Vs.

1. The Secretary to Government
Home Department, Secretariat
Chennai - 600 009.
2. State of Tamil Nadu
Rep by its Secretary
Pension Grievances Cell
Personnel and Administrative Reforms Department
Secretariat, Chennai - 600 009.
- 3.The Senior Accounts Officer
Office of the Accountant General
(Accounts & Entitlements) Tamil Nadu
No.361, Anna Salai, Chennai - 600 018.
- 4.The Commissioner of Police
Greater Chennai, Vepery, Chennai -600007. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to consider petitioner fresh representation dated 09.02.2018, which was submitted by petitioner as per the orders of this Hon'ble Court, within a time frame as fixed by this Hon'ble Court.

For Petitioner:: Mr.R.Niragulathan [Party-in-Person]

For Respondents:: Mr.D.Venkatachalam [For R1, R2 & R4]
Additional Government Pleader

ORDER

The relief sought for in this writ petition is for a direction to consider the petitioner's fresh representation dated 09.02.2018, which was submitted by the petitioner as per the orders of this Hon'ble Court, within a time frame as fixed by this Hon'ble Court.

2.The petitioner, who is appearing party-in-person, made a submission that he was allowed to retire from service without prejudice to the pending proceedings.

3.The writ petitioner has earlier filed W.P.No.32579 of 2004 with a prayer to call for the entire records culminating the passing of the impugned orders on the file of the first respondent contained in G.O.(1D) No.950, Home (Police-IV) Department, dated 03.09.2003, quash them and thereby, enable the petitioner to get all the statutory service benefits.

4.In the above Government Order, the petitioner was imposed with the punishment. The grounds raised in that writ petition was that no enquiry report was submitted and no opportunity was given to the writ petitioner to submit further explanation on the findings of the enquiry report. Considering the technical ground raised by the writ petitioner, this court passed an order on 10.11.2017 as under :

"9. The ground specifically raised in this regard even before the Appellate Authority / first respondent, the same has not been considered and the appeals were rejected in limine. Thus, the Appellate Authorities also failed to consider the ground raised by the petitioner in respect of the denial of the opportunity by serving the Enquiry Report along with the second show cause notice before passing the final order in the Disciplinary proceedings. Accordingly, the impugned orders passed by the first respondent in G.O.(1D).No.950, Home (Police-IV) Department, dated 08.11.1999 and G.O.2D.No.292, Home (Pol.IV) Department, dated 03.09.2003 and the punishment order passed by the Directory General of Police dated 25.02.1988, are quashed and the matter is remitted back to the second respondent for issuing second show cause notice to the petitioner by enclosing the copy of the Enquiry Report and after receiving the explanations / objections from the writ petitioner, the final order in the Disciplinary Proceedings shall be passed in this regard, by considering all the materials available on record. The entire exercise shall be done by the second respondent, within a period of twelve weeks from the date of receipt of a copy of this order."

5.The case was remanded back to the second respondent for issuing second show cause notice to the writ petitioner by enclosing a copy of the enquiry report and after receiving further explanation from the writ petitioner final order in the disciplinary proceedings shall be passed in this regard.

6.Further, it is brought to the notice of this court that the final order has not yet been passed in this regard by the disciplinary authorities. The writ petitioner once again filed writ petition in W.P.No.31401 of 2013, to direct the representation dated 02.12.2008 and 16.09.2013 with regard to release of the writ petitioner's service retirement and pensionary amounts illegally withheld by the respondents, a sum of Rs.3,50,000/- towards D.C.R.G., Rs.3,70,661/- towards C.V.P. and Revised Pension as per the 6th pay commission with interest from 30.08.2008 at the rate of 10% per annum as per G.O.Ms.No.506 Fin(Pen) dated 27.06.1995, with a time frame as fixed by this Court. Wherein, this court passed an order dated 15.12.2017 that the writ petitioner has to approach the Secretary, Home Department for redressing his grievances in respect of the settlement of the retirement and terminal benefits.

7.However, it was not brought to the knowledge of this court that in the earlier order dated 10.11.2017 in W.P.No.32579 of 2004 the disciplinary proceedings were remitted back to the second respondent for issuing second show cause notice to the petitioner by enclosing the copy of the enquiry report and after receiving the explanations from the writ petitioner, the final order in the disciplinary proceedings shall be passed in this regard, by considering all the materials available on record.

8.Therefore, the subsequent order passed in W.P.No.31401 of 2017 cannot be relied upon now by the writ petitioner. The present writ petition has filed on basis of the order dated 15.12.2017 passed in W.P.No.13401 of 2017 and the party-in-person made a submission that pursuant to the orders passed by this court in the above writ petition, he made a submission to the Secretary, Home Department on 09.02.2018 and the same to be considered in respect of the disbursement of his terminal and pensionary benefits.

9.When the writ petitioner is very well aware that the order of punishment was set aside and the matter was remitted back to the respondent/ disciplinary authorities, he ought not to have filed the subsequent writ petition in W.P.No.31401 of 2017. The writ petitioner was served in the rank of Additional Superintendent of Police [ASP] and therefore, this court cannot presume that he is not aware of the service rules. When the writ petitioner is very much aware of the service rules and he is having the knowledge in respect of the orders passed by this court on 10.11.2017 in W.P.No.32579 of 2004. Wherein, this court set aside the order of punishment and remanded the matter back and the same is pending before the disciplinary authorities, the

present writ petition cannot be entertained at all.

10.The grievances of the writ petitioner is that the terminal and pensionary benefits are not settled. However, the benefits are to be settled only after the final disposal of the disciplinary proceedings, which is now remanded back to the competent authority.

11.Thus, the writ petitioner would be eligible to receive all his terminal and pensionary benefits only after the final disposal of the departmental disciplinary proceedings, which is now pending on account of the remittance of the proceedings in W.P.No.32579 of 2007. Thus, the writ petitioner has to wait till the passing of the final orders by the competent authority in respect of the remitted cases.

12.In view of these facts the present writ petition seeking for a direction to consider his representation to settlement all the terminal and pensionary benefits cannot be considered at all. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar (CS-v)

//True Copy//

Sub Assistant Registrar

may

To

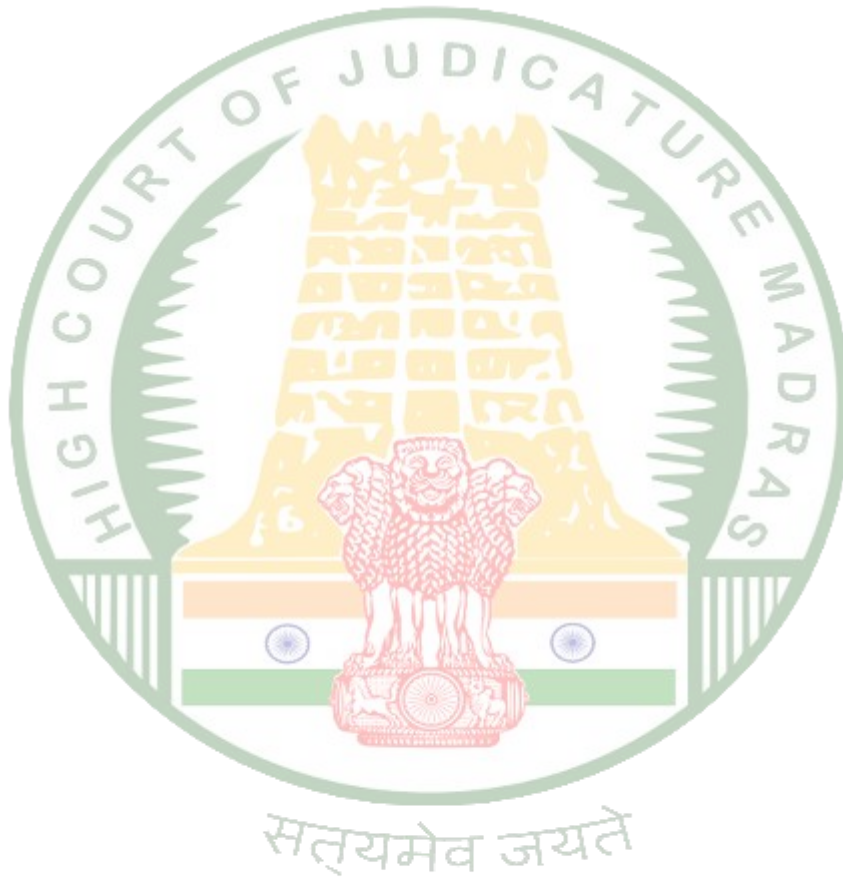
1. The Secretary to Government
Home Department, Secretariat
Chennai - 600 009.
2. The Secretary
Pension Grievances Cell
Personnel and Administrative Reforms Department
Secretariat, Chennai - 600 009.
- 3.The Senior Accounts Officer
Office of the Accountant General
(Accounts & Entitlements) Tamil Nadu
No.361, Anna Salai, Chennai - 600 018.

4.The Commissioner of Police
Greater Chennai, Vepery, Chennai -600007.

+1cc to the Government Pleader, S.R.No. 25911
+1cc to Mr.M.KEMPRAJ, Advocate, S.R.No.25769

W.P.No.8103 of 2018

SS (CO)
TR(23/04/2018)



WEB COPY