

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2018
Coram

The Hon'ble Mr.Justice Satrughana Pujahari

Writ Petition No. 23044 of 2018
and
W.M.P.No. 26936 of 2018

A.Ulaganathan

...Petitioner

Vs.

1. The Principal Secretary,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The District Collector,
Tiruvarur District,
Tiruvarur.

3. The Revenue Divisional Officer,
Mannargudi District.

4. The Revenue Tahsildar,
tiruthuraipoondi, Tiruvarur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondents 3 and 4 to disburse the terminal benefits due to the petitioner with penal interest along with backwages from the date of his termination dated 20.05.2008, until the date of his actual retirement viz., 31.03.2015 along with the continuity of service.

For Petitioner : Mr. Ashok Menon

For Respondents : Mrs. R.Janaki,
Additional Government Pleader

ORDER

Heard, Mr. Ashok Menon, the learned counsel appearing for the petitioner and Mrs. R.Janaki, the learned Additional Government Pleader who accepts notice on behalf of the

respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

2. The case of the petitioner, in this Writ Petition is that, while he was working as Village Assistant in Udayamarthandapuram Post, Tiruthuraipoondi Taluk, Tiruavarur District, Tiruvarur District, he along with another Village Assistant Officer were indicted in a Anti Corruption Case for illegal gratification of Rs. 700/-. Pursuant to the same, he was put to trial in Sessions Case No. 15 of 2016 on the file of Principal Judicial Magistrate Court, Nagapattinam, under the Prevention of Corruption Act which ended in conviction. For that, the petitioner and other co-convict were terminated from service in exercise of power under Section 17(c) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules. Thereafter the petitioner and other co-convict preferred Criminal Appeal in this Hon'ble Court vide CrI.Appeal No. 161 of 2008, which was allowed vide judgment and order of acquittal dated 04.07.2014. The aforesaid order of acquittal has already reached its finality, inasmuch as, the same has not been challenged before the Hon'ble Apex Court. Thereafter, the petitioner in all fairness of things, should have been allowed to retire on the date of his superannuation and released with all retiral benefits, to which, he is legally entitled to. The Village Administrative Officer, viz., co-convict, who was also been acquitted though has been extended benefit of the aforesaid acquittal by an order of retirement and all the benefits pursuant to such retirement has been given to him, but the petitioner has been ignored. In spite of several representations of the petitioner after such acquittal, the first of which was given on 14.08.2014 given to the third respondent and the last one is on 09.07.2018, but no action on the same has been taken, he has come to file this Writ Petition challenging such inaction of the respondents more particularly, the third respondent with a prayer to direct him to extend the benefit of such acquittal, inasmuch as, his termination was pursuant to an order under Rule 17(c) of the said Rules, and in the meanwhile, he has already been acquitted vide the aforesaid order of this Court and his co-convict, who was also been acquitted has been extended such benefit.

3. During the course of admission, however, learned counsel appearing for the petitioner would submit that though he has sought for a larger relief, but he now wants to confine his prayer seeking a direction to the third respondent to consider the representation of the petitioner in accordance with law and also the benefit extended to his co-convict in this case after such acquittal within a stipulated period.

4. The learned Additional Government Pleader for the respondents would submit that the third respondent shall have no

objection for consideration of the petitioner's representation if the same is pending but in accordance with law. However it is further submitted that since the third respondent has not filed the counter affidavit on the factual averments made by the learned counsel for the petitioner and this Court has also not verified the same, no fetter be put on the third respondent to dispose of the representation in any particular manner and he be left with a discretion to dispose of the same, verifying the facts and applying the law as applicable to the petitioner considering the averment made in the representations and also the materials on record.

5. Regard been had to the aforesaid facts and submissions made and also the nature of relief sought for, this Court, therefore, disposes of this Writ Petition at the stage of admission without seeking reply affidavit with a direction to the third respondent to consider such representation of the petitioner examining the averment made therein with the available facts within a period of six weeks from the date of receipt of the copy of this order. However, since this Court has not examined the correctness of the factual submission made in this case only giving a direction to take informed and considered decision on the representation made, it is made clear that there is no fetter on the third respondent to take decision on the same as it may deem fit and proper but in accordance with law except the fact that he must take decision within the period as stipulated by this Court above and intimate the decision thereof to the petitioner.

6. With the aforesaid order this Writ Petition stands disposed of. However, in the circumstances there shall be no order as to costs. Consequently, connected Writ Miscellaneous Petition is closed.

mrm

Sd/-

Assistant Registrar(CS-CO)

सत्यमेव जयते

//True Copy//

Sub Assistant Registrar

TO

1. The Principal Secretary,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The District Collector,
Tiruvavarur District,
Tiruvavarur.

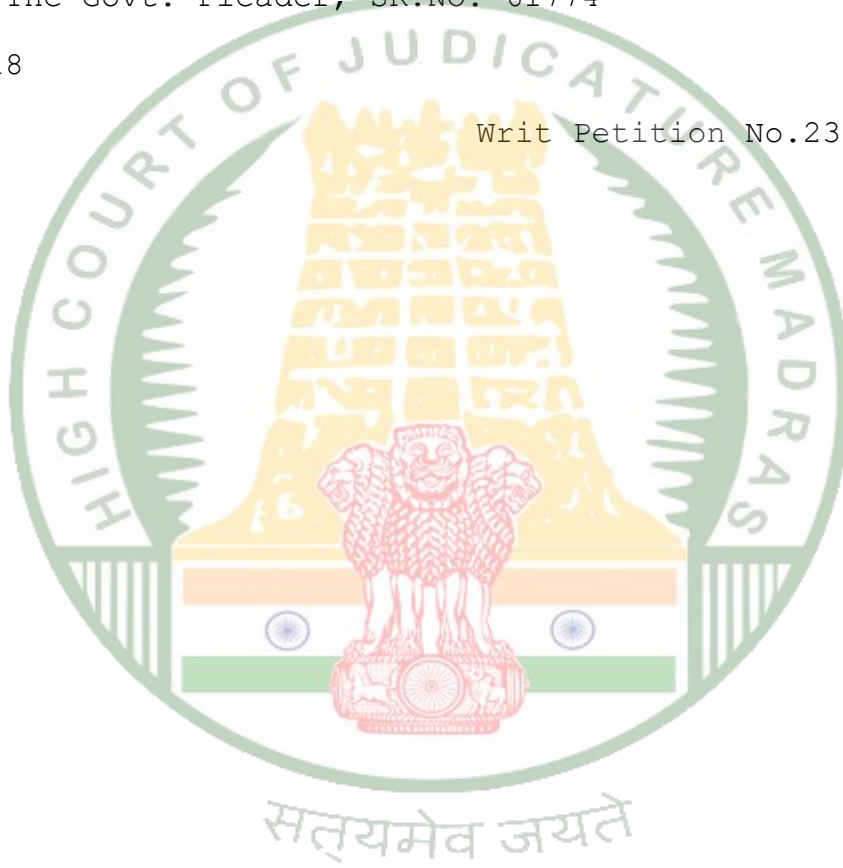
3. The Revenue Divisional Officer,
Mannargudi District.

4. The Revenue Tahsildar,
tiruthuraipoondi, Tiruvavarur District.

+ 2 ccs to M/s.Ashok Menon, Advocate S.R.No.61564
+ 1 cc to The Govt. Pleader, SR.NO. 61774

KR/22/10/18

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