

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19659 of 2008

E.Chandrasekaran

... Petitioner

Versus

1.The Assistant Director of
Survey and Land Records,
Tiruvallur, Tiruvallur District.

2.The Inspector of Survey,
Ponneri Division, Ponneri,
Tiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorari, to call for the records of the 1st respondent in R.C.No.A5/1248/2008, dated 21.06.2008 and quash the same.

For Petitioner : Mr.S.Ganesh

For Respondents: Mr.R.S.Selvam,
Government Advocate.

O R D E R

The prayer of the petitioner is to quash the first respondent's impugned order of dismissal from service in R.C.No.A5/1248/2008.

2. The petitioner was working as Maintenance Firka Surveyor and he was arrested by the Vigilance and Anti Corruption Officers for having received bribe amount from an individual for issuing Patta. A criminal case was filed by the Vigilance and Anti Corruption Officers and the said case was conducted by the learned Chief Judicial Magistrate, Tiruvallur in Session Case No.13 of 2006. When the petitioner was about to retire on 29.02.2008, he was suspended vide proceedings in R.C.No.A5/1248/08(1) issued by the first respondent under Rules 17(e)(i) of the Tamilnadu Civil Services (Discipline and Appeal) Rules, on

21.06.2008 itself. He was issued with another proceedings in A5/1248/08(2) by the first respondent and he was not allowed to retire on 29.02.2008.

3. On 15.04.2008, the learned Chief Judicial Magistrate, Tiruvallur has convicted the petitioner under Section 7, 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988 and sentenced him to undergo Rigorous Imprisonment for one year each and imposed fine of Rs.1,000/- each. In Criminal Appeal No.365 of 2008 the sentence was suspended by this Court vide order dated 07.05.2008. The first respondent has issued a suspension order in No.RC/A5/1248/2008 calling upon the petitioner, why he should not be terminated based on the conviction. While so, the petitioner was dismissed from service by the disciplinary authority vide the impugned order dated 21.06.2008. Against which, the petitioner has filed this writ petition.

4. When the matter is taken up for hearing, the learned Government Advocate, produced a letter dated 11.07.2018 in R.C.No.A6/3858/2018, addressed by the Assistant Director, Survey and Land Records, Tiruvallur. The contents of the said letter is extracted hereunder:-

"It is submitted that Thiru.E.Chandrasekaran, Maintenance Firka Surveyor was arrested by the Vigilance and Anti Corruption for having received bribe amount from an individual for issuing patta. A criminal case was filed against the individual by the Vigilance and Anti Corruption. The individual was placed under suspension with effect from 10.05.2012. Aggrieved by the suspension order the individual filed on OA(3432/02) in the Hon'ble Tamil Nadu Administrative Tribunal. The Hon'ble Tribunal in OA.No.3432/02, dated 24.06.2002 granted an interim stay to the suspension order. The individual was reinstated in service.

It is submitted that the individual was convicted by the Chief Judicial Magistrate, Tiruvallur (Case no.13/3006) in the crimina case filed by the Vigilance and Anti Corruption. Hence as per the powers conferred in Tamil Nadu Civil Services (Discipline and Appeal) Rules 17(c)(i)(i) The Assistant Director Survey and Land Records, Tiruvallur Proc.A5/1248/08, dated 21.06.2008 imposed the penalty of dismissal under clause (VIII) of Rule 8 of the Tamil Nadu civil services (Discipline and Appeal) on the said Thiru.E.Chandrasekaran.

It is submitted that the individual filed an appeal in the High Court, Chennai against the orders

passed by the Chief Judicial Magistrate, Tuirvallur.

It is also submitted that, the Hon'ble Judge, High Court of Madras allowed the appeal filed by the individual and set aside the conviction imposed by the trial court & acquitted the individual.

It is submitted that the judgement was referred to Vigilance and Anti Corruption. The Vigilance and Anti Corruption informed it has decided not to prefer and appeal in the Apex court against the Hon'ble High Court order and further stated that departmental action against the individual may be pursued.

It is submitted that final orders were passed by the Commissioner of Survey and Settlement in his Proc. No.Y4/21959/2011, dated 27.10.2015 against the charges framed against the individual as per the Rules 17(b) of Tamil Nadu Civil Services (Discipline and Appeal). (Copy enclosed).

It is submitted that the individual was ordered to be deemed to have retired from service on the afternoon of 29.02.2008 by the Assistant Director, Survey and Land Records, Tiruvallur vide his Proc.No.Rc.A5/3807/09, dated 27.11.2015.

It is submitted that the individual was sanctioned further increments due to him and his pay was regulated vide proc., of the Assistant Director, Survey and Land Records No.Rc.A5/3807/09, dated 25.01.2016.

Subsequently, his pension proposals were sent to Accountant General, Chennai-18 and the Accountant General in his admissibility report No.Pr.AG(A&E)/PEN/P22/1215421/3/R2215421/128, dated 13.05.16 has admitted the pensionary benefits.

The pensionary benefits given to the individual is submitted as follows:-

Sl No	Retirement benefits details	Ref.No.	Amount	Date of Encashment
1.	DCRG	AG Lr.No.P22/12215421/13/PP O.NO. R2215421, dated 13.05.2016.	Rs.256691/ -	24.06.2016

Sl No.	Retirement benefits details	Ref.No.	Amount	Date of Encashment
2.	GPF	GPF.44/6/FN176/2008/C5- 144/2008, 2009/DC- 158/595, dated 22.08.2008.	Rs.28,064/-	19.02.2009
3.	Final Surrender	ADSLR, Tiruvallur Proc.No.A8/463/15,dated 02.02.2016	Rs.1,85,62 5/-	29.03.2016
4.	SPF 1984	ADSLR, Tiruvallur Proc.No.A1/2779/16,dated 17.02.2017	Rs.24,906/-	14.03.2017
5.	SPF 2000	ADSLR, Tiruvallur Proc.No.A1/2779/16,date d 17.02.2017	Rs.6,605/-	20.10.2016
		Total	Rs.501891	

5. Based on the above letter of the Assistant Director, Survey & Land Records, produced by the learned Government Advocate, nothing survives in this writ petition for further adjudication. Hence, the Writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS vi)

//True Copy//

Sub Assistant Registrar

klr
To

- 1.The Assistant Director of
Survey and Land Records,
Tiruvallur, Tiruvallur District.
- 2.The Inspector of Survey,
Ponneri Division, Ponneri,
Tiruvallur District.

+1cc to Mr. , Advocate SR.No. 46738
+1 CC TO GOVERNMENT PLEADER SR.NO. 47074

W.P.No.19659 of 2008

ASK(14/11/2018)