

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.12.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO.31700 OF 2018

D.Arulmani

... Petitioner

- Vs -

1. The Secretary to Government
Municipal Administration & Water
Supply Dept., Secretariat
Fort St. George, Chennai 600 009.
2. The Commissioner of Municipal
Administration, Chepauk
Chennai 600 005.
3. The Commissioner
Salem Corporation.
4. The Assistant Commissioner
Ammapettai Block
Salem Corporation. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents to consider the petitioner's representation dated 17.7.2017 and 12.3.2018 for settlement of all the retirement benefits due and salary for the months of October, 2016 to January, 2017 payable to the petitioner with interest at 12% per annum with effect from 31.1.2017 within a time stipulated by this Court.

For Petitioner : Mr. G.Mohammed Aseef

For Respondents: Mr. A.N.Thambidurai, AGP for RR-1 & 2
Ms. K.Bhuvaneswari for RR-3 to 4

ORDER

The present petition has been filed by the petitioner for a direction to the respondents to consider the petitioner's representation dated 17.7.2017 and 12.3.18 for settlement of all retirement benefits due and salary for the month of October,

2016 to January, 2017 with interest at 12% p.a. with effect from 31.1.2017 within a particular time frame.

2. The petitioner was appointed as Record Clerk at Municipality Middle School, Salem, on 2.1.75. The petitioner as promoted as Junior Assistant in the year 1999 and, thereafter, transferred as Tax Collector on 25.8.1999.

3. It is the case of the petitioner that the Government Order in G.O. No.174 (Employees & Administrative Reforms Department) dated 8.9.00 by which G.O. 50 (Employees & Administrative Reforms Department) was cancelled, mandates that Junior Assistant-cum-Typist should have passed higher level in English or Tamil Typewriting and lower level in the left out language. Based on the above Government Order, the 3rd respondent sent an official communication dated 4.7.01 stating that the above Government Order is applicable to the posts in Corporation also. Therefore, a representation dated 18.10.02 was made by the petitioner along with some other employees seeking relaxation on the requirement of passing typewriting exam. The said representation was forwarded to the 2nd respondent through the 3rd respondent in the month of December, 2002.

4. In the representation dated 18.10.02, it is stated that the Government Order provided two years time for obtaining a pass in the typewriting in higher/lower grade, whereinafter alone promotion is to be given. Pursuant to the said Government Order, during the period provided, some of the persons have passed typewriting only in lower grade and not in the higher grade had been considered. Therefore, representation was submitted by those persons, including the petitioners, seeking exemption from the obtaining the above mandated qualification.

5. The petitioner retired from the services of the Salem Corporation on 31.7.2017, after putting in 37 years of service. However, vide communication dated 7.4.17, the Municipal Corporation of Salem has, after considering the proposal for disbursement of retirement benefits, has called for explanation from the petitioner regarding the audit objections pertaining to the years 2009-2010 and 2015-2016. The petitioner submitted a detailed reply to the audit objections. However, citing the above audit objections, the retirement benefits of the petitioner has not been disbursed in addition to salary for a period of about six months. Since the petitioner did not receive the complete retirement benefits, the petitioner has been sending repeated representations since the year 2017. Since the representations did not evoke any response from the respondents, the petitioner has been compelled to file this writ petition.

6. A perusal of the representation reveals that the petitioner had rendered service as Junior Assistant only for a period of 9 days in the year 1999, i.e., from 16.8.1999 to 24.8.1999. Pointing out that he was transferred from the post of Junior Assistant to Revenue Assistant on 23.8.1999 and, thereafter, he was relieved on 24.8.1999 and that the audit objections are only on misconception that the petitioner had been serving as Junior Assistant, the petitioner sought for removal of the audit objections in order to ensure payment of the retirement benefits to him.

7. Learned counsel appearing for the respondents submit that salary to the tune of Rs.1,51,659/- has already been paid to the petitioner and sought for time to pay the balance amount.

8. It is to be pointed out that the audit objections pertaining to the petitioner for the period 2009-2010 and 2015-2016 ought to have been looked into as and when it was raised and the same should have been cleared before retirement of the petitioner. However, the respondents have not been vigilant in clearing the audit objections. It is pointed out that the audit objections raised ought to have been disposed of then and there and it is not appropriate to quote the audit objections as a reason for declining the retirement benefit to the petitioner. Further, no financial impropriety has been committed by the petitioner nor any financial loss has been caused to the respondent by the act of the petitioner. In such circumstances, the representation should have been considered and orders passed thereon.

9. Be that as it may. It is to be pointed out that the petitioner is only seeking a direction for consideration of his representation and for passing orders on the same. In the above circumstances, it would suffice to direct the respondents to consider the representation of the petitioner dated 12.3.18 and the earlier representations submitted in the year 2017 and pass appropriate orders with a specified time frame.

10. In the above circumstances, the respondents are directed to consider the representation of the petitioner dated 12.3.18 and the earlier representation submitted in the year 2017 and pass appropriate orders thereon within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

GLN

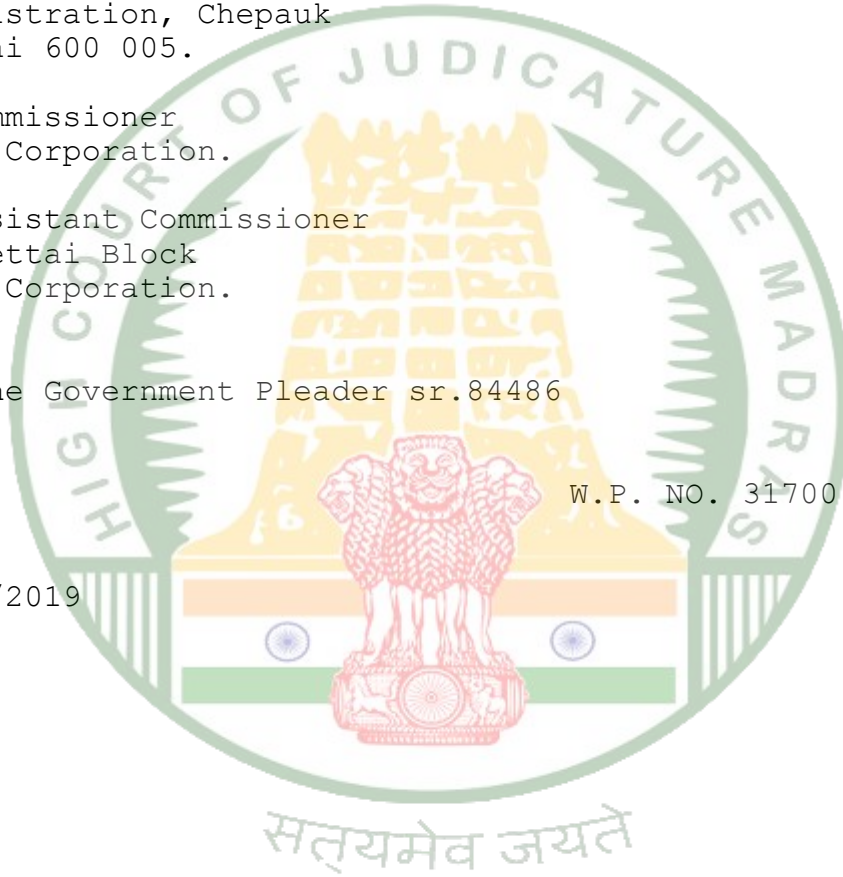
To

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+1cc to the Government Pleader sr.84486

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srg 23/01/2019



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