

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.12.2018
CORAM:
THE HONOURABLE Dr. JUSTICE S.VIMALA
W.P.No.30644 of 2018

A.R.Mohan

... Petitioner

Versus

The Additional Director General of Police (Crime),
Chennai -9.

... Respondent

Prayer :Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent herein in his proceedings in Rc.NO.A3/ADC/1366/05, C.No.104/2018, dated 28.05.2018 and quash the same and consequently direct the respondents herein to allow the petitioner to retire from service w.e.f 31.05.2018 and treat the period of suspension as duty for all purposes in accordance with Fundamental Rules 54, Ruling-9 and disburse all terminal and retirement benefits due to the petitioner together with 12% interest per annum, within a time frame as deem fit.

For Petitioner : Mr.G.Bala and Daisy

For Respondent : Mr.A.N.Thambidurai,
Additional Government Pleader.

ORDER

The writ petition has been filed by the petitioner seeking direction to the respondent to allow the petitioner to retire from his service with effect from 31.05.2018 and treat the period of suspension, as duty period, for the purpose of getting all terminal and retirement benefits, due to the petitioner together with 12% interest per annum, within a time frame.

2.It is stated that the petitioner joined the Police Department as directly recruited Sub-Inspector of Police on 24.08.1987. He was promoted as Inspector of Police on 28.11.1997 and he had more than 60 rewards to his credit. When he was working as Inspector of Police, a false complaint was filed against him by one C.Selvaraj and a case was registered in Crime No.10 of 2005 under Section 7 of the Prevention of Corruption Act, 1988. The petitioner was arrested and subsequently released on bail. Thereafter, final report was

filed and the case was taken on file in C.C.No.09 of 2006 on the file of the Chief Judicial Magistrate, Tiruchirapalli.

3.On the basis of the said criminal case in C.C.No.09 of 2006, the petitioner was placed under suspension with effect from 05.07.2005, by an order dated 06.07.2005. The petitioner was due to retire from service on superannuation on 31.05.2018. But, the respondent did not allow the petitioner to retire from service by an order dated 28.05.2018. Now, more than thirteen years lapsed, since the petitioner had been under suspension.

4.Learned counsel for the petitioner submitted that unfortunately, a false criminal case had been foisted against the petitioner. However, after trial, the petitioner has been acquitted in the criminal case in S.C.No.13 of 2011 by the learned Special Judge for Vigilance and Anti-corruption cases at Trichy vide judgment dated 29.06.2018, wherein it has been observed as follows:-

"95.இறுதியாக இவ்வழக்கின் எதிரியை பொறுத்து ஊழல் தடுப்பு சட்டம் 1988 பிரிவுகள் 7 மற்றும் 13(2) உட்குறி 13(1) (டி) பிரிவின் படியான குற்றத்தை பொறுத்து குற்றவாளி அல்ல என்று தீர்மானித்து கு.வி.மு.ச. பிரிவு 248(1) ன் கீழ் விடுதலை செய்து இந்நீதிமன்றம் தீர்ப்பளிக்கின்றது."

In the above Judgment, the findings of the Trial Court is that the petitioner is not guilty for the offence under Sections 7 and 13 (2) r/w 13(1) (d) of the Prevention of Corruption Act and that the amount of Rs.3,000/- was ordered to be paid to the complainant after appeal is time over. Under such circumstances, the contention of the petitioner is that the suspension order ought to have been revoked and the petitioner ought to have been permitted to retire from service with all consequential benefits.

5.Heard the learned Additional Government Pleader appearing for the respondent also.

6.It is seen that the petitioner was placed under suspension on 05.07.2005 on corruption charges and a criminal case was registered against the petitioner. Though the petitioner was due to retire from service on superannuation on 31.05.2018, he was not allowed to retire from service by the respondent vide impugned proceedings dated 28.05.20018. Subsequently, in the criminal case, the petitioner was acquitted by the learned Special Judge for Vigilance and Anti-corruption cases at Trichy vide judgment dated 29.06.2018. In view of the acquittal of the petitioner from the criminal, the order of suspension has to be revoked and the petitioner is entitled to all consequential monetary benefits. In this regard, a reference could be placed in the decision relied upon by the learned counsel for the petitioner, reported in 2005 (4) CTC 7 (The Secretary, Vellalar Gurukulam Higher Secondary School vs. District Educational

Officer, Cuddalore), wherein it has been held as follows:-

"6. Once a person is acquitted in a criminal case, it has to be deemed that he never committed that offence. This is because every judgment operates retrospectively unless expressly made prospectively, unlike a legislation which normally operates prospectively unless expressly made retrospectively. Since the employee has been acquitted in the criminal case that judgment will operate retrospectively and it has to be deemed that the teacher concerned was never guilty of that offence. Consequently, he is entitled to his salary for the period of his unemployment and he is entitled to reinstatement. We see no infirmity in the order of the learned Single Judge. "

The dictum laid down in the above said decision would squarely be applicable to the present facts of the case. In the instant case also, the criminal case, on the basis of which the petitioner was placed under suspension, has ended in acquittal. Hence, the suspension order is liable to be revoked.

7. Accordingly, the impugned order is quashed and the suspension order is ordered to be revoked. The respondent is directed to permit the petitioner to retire from service with effect from 31.05.2018 and disburse all consequential terminal and retirement benefits to the petitioner within a period of two months from the date of receipt of a copy of this order.

With the above terms, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

klt
To

The Additional Director General of Police (Crime),
Chennai -9.

+1cc to Mr.G.Bala and Daisy, Advocate sr.no.85012

nr 03/01/2019

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