



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

REV.APLW(MD) .No.48 of 2018
and
W.M.P (MD) .No.19419 of 2018
in
W.P. (MD) No.18587 of 2014

1.The Inspector General of Registration,
Santhome High Road,
Chennai-28.

2.The Principal Secretary,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Saint Fort George,
Secretariat,
Chennai-600 009.

... Petitioners

Vs.

Baladoss

... Respondent

PRAYER: Application filed under Order 47 Rule 1 read with Section 114 of Civil Procedure Code, to review the order dated 07.02.2018 made in W.P.No.18587 of 2014 and M.P(MD).No.1 of 2014.

Prayer in WP(MD)No. 18587/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, call for the records relating to no. 40929/V2/2009 dated 08.10.2013 passed by the respondent and quash the same as illegal and pass such further orders as this Honourable Court deem fit.

Prayer in MP(MD)No.1/2014 IN WP(MD)No. 18587/ 2014 :

To dispense with the production of original impugned order in no. 40929/V2/2009 dated 08.10.2013 passed by the respondent and thus render.



For Petitioners : Mr.M.Murugan
Government Advocate

For Respondent : Mr.R.Ramadurai

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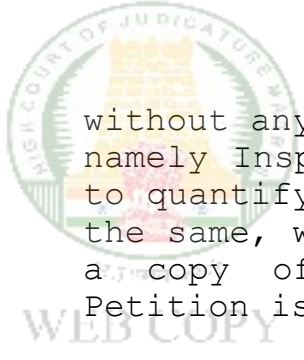
ORDER

Thiru.A.Baladoss was employed as Office Assistant in Registration Department. Disciplinary proceedings were initiated against him. He was removed from service. Challenging the same, he filed W.P(MD).No.6979 of 2009, this Court by order dated 26.03.2013 set aside the punishment of removal from service alone. However, the finding of guilt was confirmed. The matter was remitted to the file of the Inspector General of Registration herein for passing an order imposing a lesser punishment, other than removal from service. Thereafter, by order dated 08.10.2013, the Inspector General of Registration, modified the punishment from one of removal of service to one of compulsory retirement. However, 1/3rd cut in a eligible DCRG Pension and other benefits, was imposed. This was assailed in W.P(MD).No.18587 of 2014. The learned counsel appearing for the writ petitioner/respondent herein contended that the requirement of consulting TNPSC was not followed and therefore, the order was liable to be set aside. This Court after extracting Rule 39 (2) of Tamil Nadu Pension Rules, 1978, held that inasmuch as the said provision was not complied with, the order was liable to be quashed and accordingly, the Writ Petition was allowed.

2. Now the review application in REV.APLW(MD).No.48 of 2018 has been filed. The learned Government Advocate pointed out that Rule 39 (2) will come into play only if the Government passed an order awarding a pension less than the full compensation pension. In this case, the order was passed not by the Government, but only by the Inspector General of Registration.

3. I am satisfied that the order passed by me in allowing the Writ Petition suffered from the error apparent on the face of record. Rule 39 (2) of the Pension Rule will come into play, if in the case of a Government servant the Government passes an order (whether original, appellate or in exercise of power of review) awarding a pension less than the full compensation pension admissible under these rules. In this case, the order was passed only by the Inspector General of Registration. Therefore, the said Rule obviously will not come into play.

4. In this view of the matter, the order dated 07.02.2018 allowing W.P.No.18587 of 2014 is set aside and the Review Application in REV.APLW.No.48 of 2018 is allowed. But, now the matter cannot rest there. The writ petitioner reached his superannuation more than ten years ago. He has not been disbursed with any benefit. Since the writ petitioner is now accepting the order of compulsory retirement imposed by the Inspector General of Registration, benefit payable to him will have to be disbursed



without any further delay. This Court directs the review applicants namely Inspector General of Registration as well as the Government, to quantify the benefits payable to the writ petitioner and disburse the same, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai-28.
- 2.The Principal Secretary,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Saint Fort George, Secretariat,
Chennai-600 009.

+1CC to the Special Government Pleader SR.No. 92576

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RMK
ES/SKN/SAR 3/30.10.2018/3P/4C