



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.10822 of 2018

and

W.M.P(MD) Nos.9942 & 9943 of 2018

V.Jayakumar

... Petitioner

vs.

1. The Government of India
Represented by its Secretary to Government
Department of Commerce
Ministry of Commerce and Industry
Udyog Bhavan, New Delhi- 110 107
2. The Joint Secretary to Govt. of India
and the Chairman, Export Inspection
Council of India
Department of Commerce
Ministry of Commerce and Industry
Udyog Bhavan, New Delhi- 110 107
3. The Director(I&Q/C) and Appointing Authority
Export Inspection Council of India
(Department of Commerce,
Ministry of Commerce and Industry),
III floor, NDYMCA Cultural Centre Building
1, Jaisingh Road, New Delhi- 110 001
4. The Joint Director
Export Inspection Agency- Chennai
(Ministry of Commerce and Industry)
6th floor, C.M.D.A. Tower- II
1, Gandhi Irvin Road, Egmore,
Chennai- 600 008

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order No. EIC/D(Q/C)148/FR56(J)/A/2017-18/5306 dated 15.02.2018 passed by the third respondent and quash the same and consequently direct the respondents to permit the petitioner to continue in service till the attainment of the age of 60 years and retire the petitioner only on 30.04.2019 A.N. on superannuation and grant all the service, monetary as well as retirement benefits counting the service of the petitioner upto 30.04.2019 A.N.



For Petitioner : Mr.A.Thirumurthy
For Respondents : Mr.V.Kathirvelu
Assistant Solicitor General
for Mr.K.Prabhu
Central Government Standing Counsel

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O R D E R

The petitioner is presently working as a Deputy Director of Export Inspection Agency in Tuticorin. He has put in 37 years of service. The learned counsel appearing for the petitioner submits that the track record of the petitioner is entirely free from blemish and that he has not even suffered a single punishment. Whiles, the Appointing Authority has issued the impugned order, dated 15.02.2018, prematurely retiring the petitioner from service. Aggrieved by the said order, the petitioner has submitted a representation / appeal dated 27.03.2018 to the second respondent.

2. When the matter came up for hearing yesterday (i.e. 09.05.2018), this Court permitted the petitioner to serve papers on the learned Assistant Solicitor General for Union of India. The respondents are represented by their counsel today (i.e.10.05.2018).

3. It was submitted that the appeal papers are presently pending before the second respondent and that they are yet to take a call in the matter.

4. Considering the exceptional facts obtaining in this case, this Court is constrained to issue the following directions to the second respondent:

- (i) The representation / appeal submitted by the writ petitioner shall be heard on merits without any reference to the delay occasioned in filing the same.
- (ii) Since the writ petitioner was given the pay scale of the next higher grade (Joint Director) with effect from 06.04.2011, for which the qualifying criteria bench mark is "Very Good" rating APAR for the preceding five years, the said appeal shall be disposed of on or before 25.05.2018. If need be, the second respondent shall convene a Special Meeting for the same.
- (iii) The petitioner shall be heard in person before passing final orders and he can be given notice by E-mail / SMS.
- iv) The learned counsel for the petitioner submits that the petitioner will rush to attend the personal hearing the moment he is informed of the enquiry date.



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v) If the Committee comes to a decision that the premature retirement of the petitioner was unjustified, the consequential benefits shall follow.

vi) If due to some extra-ordinary reason the second respondent is unable to pass final order before the effective date and if the final order is in favour of the petitioner, the petitioner shall be forthwith reinstate in service and the intervening period shall be treated as duty for all purposes.

vii) The learned counsel for the petitioner submits that though the impugned order is dated 15.02.2018, the petitioner received the same only on 28.02.2018 and therefore, the three months period would expire only on 28.05.2018. This Court makes it clear that the petitioner shall remain in service, even in terms of the impugned order, till 28.05.2018.

5. With the above directions, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government,
The Government of India
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhavan, New Delhi- 110 107.
2. The Joint Secretary to Govt. of India,
and the Chairman, Export Inspection Council of India,
Department of Commerce,
Ministry of Commerce and Industry,
Udyog Bhavan,
New Delhi- 110 107.
3. The Director(I&Q/C) and Appointing Authority,
Export Inspection Council of India,
(Department of Commerce,
Ministry of Commerce and Industry),
111 Floor, NDYMCA Cultural Centre Building,
1, Jaisingh Road, New Delhi- 110 001.



4. The Joint Director,
Export Inspection Agency- Chennai,
(Ministry of Commerce and Industry),
6th floor, C.M.D.A. Tower- II,
1, Gandhi Irvin Road,
Egmore, Chennai- 600 008.

+1cc to M/S.A.Thirumurthy, Advocate SR.No. 65282
+1cc to M/S.K.Prabhu, Advocate SR.No. 65252

W.P.(MD) No.10822 of 2018
and
W.M.P(MD) Nos.9942 & 9943 of 2018
10.05.2018

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