



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.10720 of 2016

and

W.M.P. (MD) No.8308 of 2016

Jeyaseelan

... Petitioner

Vs.

1. The District Collector,
Ramanathapuram District.

2. The Revenue Divisional Officer,
Ramanathapuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the charge memo dated 23.05.2016 issued by the respondent in R.O.C.No.A1/7459/2014, quash the same and direct the respondent to disburse the arrears of salary, retirement benefits due to the petitioner with cost.

For petitioner : Mr.S.Anand Chandrasekar
for Sarvabhauman Associates

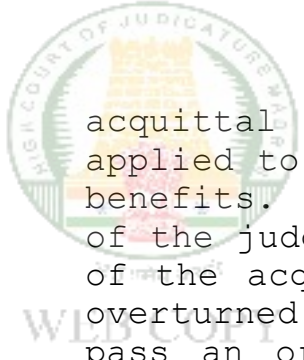
For Respondents : Mrs.S.Srimathy
Special Government Pleader

O R D E R

Heard the learned counsel on either side.

2. The petitioner was working as a Village Administrative Officer. He was implicated in a criminal case under Prevention of Corruption Act, 1988 on 27.03.2002. He came to be convicted on 22.01.2007. However, the judgment of conviction was overturned in CrI.A.No.48 of 2007 on 22.07.2015. The writ petitioner got acquittal at the hands of this Court.

3.The petitioner was suspended on 28.03.2002 and in view of his conviction, at the hands of the trial Court, he was also dismissed from service on 29.08.2007. The petitioner reached the age of superannuation on 31.06.2007. Following the judgment of



acquittal in Criminal Appeal on 22.07.2015, the writ petitioner applied to the first respondent for disbursement of his retirement benefits. The petitioner was dismissed from service, only in view of the judgment passed by the trial court convicting him. In view of the acquittal, the order of dismissal should automatically be overturned. The petitioner, therefore wanted the respondents to pass an order formally allowing him to retire from service and also disburse the retirement and monetary benefits.

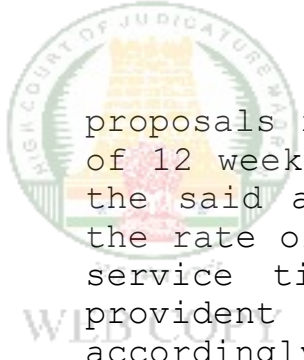
4. Instead of responding appropriately to the said representation, the second respondent chose to issue the impugned charge memo dated 23.05.2016, which is assailed in this writ petition.

5. The special Government Pleader wanted time to file a counter affidavit. However, this Court is in view of the fact that this writ petition can be disposed of on uncontroverted facts. Three facts are not in dispute.

(i) Firstly, the writ petitioner was dismissed from service only in view of the conviction suffered by him in Spl.C.C.No.39 of 2002 on the file of the Chief Judicial Magistrate, Special Court, Ramanathapuram. The said judgment of conviction was reversed by this Court in Crl.A.(MD)No.48 of 2007.

(ii) Secondly, the petitioner reached the age of superannuation as early as on 31.06.2011. The charge memo impugned in this writ petition has been issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1995. The Full Bench of this Court in a decision reported in **2013(3) CTC 369 [C.Mathesu Vs. The Secretary to Government, Revenue Department, Chennai-9 and others]** has held that an employee who was crossed the age of superannuation, can only be proceeded in terms of the Tamil Nadu Pension Rules. Even in the Pension Rules there are some caveats viz., cause of action for initiating action should have arisen within 4 years from the date of retirement. In the present case, the cause of action arose as early as in the year 2002. Therefore, the charge memo was issued in May 2016. The writ petitioner had already reached the age of superannuation in the year 2011 itself. Looked at from any order, the issuance of charge memo cannot be justified. The second respondent lacked the jurisdiction to issue the charge memo. Accordingly, the writ petition is allowed by quashing the charge memo impugned in this writ petition. This writ petition stands allowed.

(iii) The writ petitioner admittedly did not work from 28.03.2002 onwards. The learned counsel for the writ petitioner, on instructions, submits that his client would forego the claim for back wages. The writ petitioner is deemed to have retired on 30.06.2011. The respondents shall finalise the pensionary



proposals for the petitioner and disburse the same within a period of 12 weeks from the date of receipt of a copy of this order. If the said amount is not disbursed, it would carry an interest at the rate of 12% per annum. The petitioner will have continuity of service till the date of retirement and all the benefits of provident fund, leave salary and gratuity shall be computed accordingly.

6. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District.
2. The Revenue Divisional Officer,
Ramanathapuram.

+ 1 cc TO M/S.Sarvabhauman Associates , Advocate in SR No. 55781

pnn
AE/KKR/SAR2/31.05.2018/3P/4C

ORDER MADE IN
W.P. (MD) No.10720 of 2016
15.03.2018