



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.(MD) No.1286 of 2018
and
CMP(MD)No.9012 of 2018
against WP(MD).13328/17

The Commissioner,
Madurai Municipal Corporation,
Madurai.

... Appellant/2nd Respondent

vs.

1.K.N.Dhamodharan

2.The Commissioner of Municipal Administration,
Chepauk, Chennai.

... Respondents/
Petitioner & 1st Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 06.02.2018 made in W.P(MD)No.13328 of 2017 on the file of this Court.

Prayer in WP(MD). 13328/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to disburse all the retirement benefittis to the petitioner including full pension and gratuity with interest at the rate of 18% per annum on the arrears within a time frame fixed by this Hon'ble Court.

For Appellant : Mr.R.Murali

For R1 : Mr.B.Saravanan

JUDGMENT

[Judgment of the Court was delivered by **T.RAJA, J.**]

This writ appeal is directed against the order of the learned Single Judge dated 06.02.2018 passed in W.P(MD)No.13328 of 2017, on the ground that when the first respondent/writ petitioner has suffered departmental proceedings, till the departmental proceeding comes to an end, he is not entitled to receive retiral



benefits. As the first respondent/writ petitioner caused loss to the Corporation, he should not be allowed to retire from service. Although the writ petitioner has filed W.P(MD)No.11020 of 2009, challenging the charge memo dated 29.08.2009 and the same was allowed, the appellant/second respondent has not questioned G.O.Ms.No.567, Municipal Administration and Water Supply Department, dated 31.12.2009, by which, the writ petitioner was allowed to retire.

2.We do not find any merit in the writ appeal for the following reasons:

(i)When the first respondent/writ petitioner was proceeded departmentally by issuing the charge memo dated 29.08.2009 at the verge of his retirement, questioning the same, he came to this Court by filing a writ petition in W.P(MD)No.11020 of 2009, taking support from the aforementioned G.O.Ms.No.567, Municipal Administration and Water Supply Department, dated 31.12.2009, taking a plea that no Government employee as per the said Government Order should be prosecuted departmentally at the verge of retirement, when the alleged incident has taken place long time ago. This Court agreeing with the case of the first respondent/writ petitioner, accepting the Government Order issued, allowed the writ petition, quashing the charge memo, by the order dated 17.10.2014. The said order passed by the learned Single Judge was allowed to become final. Therefore, the first respondent/writ petitioner is entitled to retire at the age of superannuation with the disbursement of retirement benefits.

(ii)As the order passed by this Court on 17.10.2014 in W.P (MD)No.11020 of 2009 has become final and the charge memo issued against the first respondent/writ petitioner was already quashed and no further appeal has been filed, in our considered opinion, the order of the learned Single Judge does not call for any interference.

3.This writ appeal fails and the same is dismissed accordingly. No costs. Consequently, CMP(MD)No.9012 of 2018 is closed.

Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar(CS-IV)

+1 CC To MR.R.MURALI, Advocate SR. NO. 88454

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