

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.561 of 2019

Dr.Shanmugaraman

...Petitioner

vs.

1.The Secretary to the Government of Tamil Nadu,
Health & Family Welfare Department,
Fort St.George, Chennai.

2.The Director of Medical & Rural Health Services,
Anna Salai, Teynampettai,
Chennai - 600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Mandamus, directing the respondents herein to disburse the petitioner's service benefits and other benefits due to him as per his representation dated 31.10.2018 within a time limit fixed by this Court.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mrs.A.Sri Jayanthi
Additional Government Pleader

ORDER

The Writ Petition has been filed by the petitioner seeking direction to direct the respondents herein to disburse the petitioner's service benefits and other benefits due to him as per his representation dated 31.10.2018 within a time limit fixed by this Court.

2.The case of the petitioner is that the petitioner directly recruited as an Assistant Surgeon in the year 1983. Thereafter, he was transferred to various places in Tamil Nadu while he was in service, local politician had developed a grudge against the petitioner and sent a petition to the Director of Medical Services in the year 1996 alleging that the petitioner supported AIADMK candidate in the general elections held during 1996 by canvassing for the said candidate. Based on the above said compliant a preliminary inquiry was conducted by the Deputy Director of Medical and Rural Health Service, Chennai- 6 and

based on the out of the inquiry, a charge memo was issued to the petitioner on 12.11.1996 alleging that while he was working as Assistant Surgeon at the Government Hospital, Aruppukottai during April 1996 general elections belonging to AIADML and had participated in the political meeting. After conducting ex parte inquiry conducted by the Disciplinary Authority without even hearing the petitioner, he was removed from service.

3. Aggrieved by the order, the petitioner filed O.A. Before the Tamil Nadu Administrative Tribunal at Chennai. Tamil Nadu Administrative Tribunal, Chennai while entering original application granted an interim stay on the operation of the removal orders. Accordingly, the petitioner was allowed to join duty and he joined duty on 26.07.2000 F.N. at Coimbatore Medical College, Hospital, Coimbatore. Subsequently, he was transferred to Government Hospital, Gudalur and he joined duty there on 08.06.2002 and was on authorised absence from duty from 06.01.2003 onwards.

4. The learned counsel appearing for the petitioner would submit that the petitioner's representation dated 31.10.2018 with regard to the service benefits and other benefits was not considered till date.

5. The learned Additional Government Pleader appearing for the respondent would submit that the petitioner had withdrawn W.P.No.41625 of 2006 (O.A.No.4909 of 2000 renumbered as W.P.No.41625 of 2006) and this Court by its order dated 05.07.2007, dismissed the writ petition W.P.No.41625 of 2006 as withdrawn. Hence, the first respondent herein, examined the case further in detail and it was considered that inasmuch the writ petition filed by the petitioner against the order of removal from service was dismissed as withdrawn, G.O.(D)No.291, Health and Family Welfare Department, dated 29.03.2000 in which the punishment of removal from service was imposed will remain in force and the fact that the petitioner is deemed to have been removed from service holds good and accordingly, the first respondent in super session of the orders issued in G.O.(D). No.291, Health and Family Welfare Department, dated 29.03.2000, issued orders imposing removal from service on the petitioner vide G.O.(D)517, Health and Family Welfare (K2) Department, dated 28.05.2010 and the same was received by the petitioner on 31.05.2010. Further, it is submitted that the averment of the petitioner that his age of superannuation was 02.02.2002 is not true and it is only 31.05.2010 his date of birth being 15.05.1952.

6. Admittedly, the petitioner was dismissed from service in the year 2000. Aggrieved by the said order, the petitioner filed O.A. before the Tribunal. Later on the O.A. Was

transferred and re-numbered as W.P.No.41625 of 2006 and subsequently, writ petition was dismissed as withdrawn. In the year 2002, the petitioner attained superannuation. However, dismissal order was confirmed by this Court when the petitioner withdrawn the petition without any agitation. Hence, the prayer in the writ petition cannot be granted. Accordingly, the Writ Petition is dismissed with liberty to the petitioner to work the remedy in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

pam

To

1.The Secretary to Government,
Government of Tamil Nadu,
Health & Family Welfare Department,
Fort St.George, Chennai.

2.The Director of Medical & Rural Health Services,
Anna Salai, Teynampettai,
Chennai - 600 006.

+1cc to Mr.B.Kumarasamy, Advocate SR.No.77498

+1cc to Government Pleader SR.No.77758

W.P.No.561 of 2019

PA(CO)
GMY(04/11/2019)

सत्यमेव जयते

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