

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9292 of 2018

A.Duraisamy

..Petitioner

vs

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The Revenue Divisional Officer
Dharapuram
Tiruppur District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondents to release all terminal benefits including the General Provident Fund, Special Provident Fund, Gratuity, Encashment of Earned Leave Salary on Private affairs and other statutory benefits etc., based on the petitioner representation dated 01.03.2018., along with interest within a stipulated time fixed by the Hon'ble Court.

For Petitioner : Mr.C.Rajaguru

For Respondents : Mr.R.S.Selvam
Government Advocate for R1 & R2

O R D E R

The relief sought for in the present writ petition is for a direction to direct the 2nd respondent to release all terminal benefits including the General Provident Fund, Special Provident Fund, Gratuity, Encashment of Earned Leave Salary on Private affairs and other statutory benefits etc., based on the petitioner representation dated 01.03.2018.

2.Admittedly, the writ petitioner, who was holding the Post of Village Administrative Officer is now facing a criminal case in S.C.No.5 of 2006 on the file of the Chief Judicial Magistrate Court, Dindugal.

3.It is brought to the notice of this Court that the writ

petitioner was not allowed to retire from service on account of the fact that the criminal case is pending against him. The writ petitioner has been retained in service as per the Fundamental Rules 56(1)(c) and the service benefits are withheld. Under these circumstances, the writ petitioner is entitled to claim the retirement and terminal benefits only after the disposal of the criminal case and the departmental disciplinary proceedings, if any initiated.

4. Under these circumstances, pendency of a criminal case is a bar for settlement and the terminal and retirement benefits as the writ petitioner was not allowed to retire from service and he had retained in service.

5. This being the factum, the relief as such sought for cannot be granted. Even to issue a direction to consider the representation, the writ petitioner has to establish that he is entitled to get the terminal and service benefits. In the absence of any such legal right, no such direction can be issued.

6. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The Revenue Divisional Officer
Dharapuram
Tiruppur District.

+1cc to Mr.C.Rajaguru, Advocate, S.R.No.22685
+1cc to the Government Pleader, S.R.No. 23174

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CP(CO)
GN(04/04/2019)