

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.16026, 16033, 16041 & 16049 OF 2019

AND

W.M.P. NOS.15797, 15798, 15803, 15804, 15808,
15810, 15812 & 15814 OF 2019

W.P.No.16026 of 2019

V.Chandrasekaran

... Petitioner

Vs.

The Sub Collector,
Tiruppur,
Tiruppur District.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.1833/2009/A3, dated 03.04.2018 and quash the same and consequently directing the respondent to disburse the Gratuity, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs to the petitioner.

W.P.No.16033 of 2019

G.Karunamoorthy

... Petitioner

Vs.

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The Sub Collector,
Dharapuram,
Tiruppur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for

the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.5122/2007/AA, dated 10.10.2018 and quash the same and consequently directing the respondents to disburse the Death cum retirement benefits including Gratuity to the petitioner.

W.P.No.16041 of 2019

R.Thirumalainathan

... Petitioner

Vs.

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The Sub Collector,
Dharapuram,
Tiruppur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.3467/2008/AA, dated 10.10.2018 and quash the same and consequently directing the respondents to disburse the Death cum retirement benefits including Gratuity to the petitioner.

W.P.No.16049 of 2019

R.Thirumalaisamy

... Petitioner

Vs.

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The Sub Collector,
Dharapuram,
Tiruppur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.121/2009/AA, dated 10.10.2018 and quash the same and consequently directing the respondents to disburse the Death cum retirement benefits including Gratuity to the petitioner.

For Petitioners : Mr.C.Prakasam
(in all W.Ps)

For Respondents : Mr.R.S. Selvam
Government Advocate
(in all W.Ps)

COMMON ORDER

Since the facts and circumstances and the issues raised in the writ petitions are almost identical vis-a-vis prayer sought for is also similar in nature, these writ petitions taken up together and being disposed vide this common order.

2. The writ petitioners were they Village Administrative Officers and they were involved in the offence of illegal gratification and consequent to which, they were suspended and criminal proceedings were also initiated against them by the Vigilance and Anti Corruption Department, Erode and the said proceedings have been pending against the petitioners. Whiles, even the petitioners attained the age of superannuation they were not permitted to retire from service due to pendency of the Criminal, Departmental proceedings and writ petitions. It appears that, on earlier occasions the petitioners moved this Court for disbursement of all retiral benefits and this Court also ordered the same. However, while complaint with the orders of this Court, it appears that the respondents have not disbursed the gratuity vide respective proceedings impugned in these writ petitions. Aggrieved by the same the petitioners are before this Court, claiming for disbursement of gratuity.

3. The learned counsel appearing for the petitioners would submit that, the second respondent has erroneously rejected the claim of the petitioners regarding disbursement of gratuity for which the petitioners are entitled to. The learned counsel would also submit that even though this Court on earlier occasions when the petitioners approached this Court, this Court had given clear direction to disburse all retiral benefits including gratuity, however, the second respondent rejected the claim of the petitioner by the impugned orders, which cannot be sustained in law and they are liable to be set aside.

4. Detailed counter affidavits have been filed by the second respondent. The learned Government Advocate appearing for the respondents while reiterating the averments contained in the counter affidavits, would vehemently contained that as against the petitioners criminal proceedings initiated by the Vigilance and Anti Corruption Department, Erode and the said proceedings are still pending and in compliance of the earlier orders of this Court, the second respondent has disbursed all the retiral benefits except gratuity relying upon Rule 69(1)B of the Tamil

Nadu Pension Rule 1978, which envisages that no gratuity shall be paid to Government Servant until the conclusion of the Departmental or Judicial proceedings and issue of final orders thereon. Therefore, when admittedly, as against the petitioners Judicial proceedings are pending against them, the petitioners have not entitled to the gratuity and the second respondent has rightly rejected the claim of the petitioners by issuing impugned proceedings, which cannot be interfered with.

5. Heard learned counsel appearing for the petitioners and learned Government Advocate appearing for the respondents and perused materials placed on record.

6. Admittedly, the petitioners were alleged involved in the offence of illegal gratification and criminal cases in C.C.Nos. 106 of 2008, 10 of 2009 and 106 of 2011 have been pending before the concerned Chief Judicial Magistrate Court, Tiruppur. It is also not in dispute that the petitioners have been paid all retiral monetary benefits, but except gratuity. On perusal of the impugned orders, it would reveal that the 2nd respondent had rejected the claim of the gratuity by relying Rule 69(1) B of the Tamil Nadu Pension Rules. It is relevant to extract Rule 69 (1) B of the Tamil Nadu Pension Rules which reads as follows:-

"69. Provisional Pension where Departmental or Judicial proceedings may be pending.

(1) (a)

(b) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon:

[Provided that no such gratuity, shall be withheld in respect of a Government servant who has been permitted to retire without prejudice to the departmental or judicial proceedings pending against him, where such departmental or judicial proceedings are only for administrative lapses not involving any pecuniary loss to the Government.] [Provided further that where a Government servant, against whom a departmental or judicial proceedings involving pecuniary loss to Government is pending, is permitted to retire without prejudice to such departmental or judicial proceedings, a portion of gratuity may be authorized after deducting the maximum computed financial loss to the Government for which the Government servant is held liable, along with un-recovered Government dues if any, of such Government servants, with interest.]

7. The above Rule is very clear that no gratuity will be paid to the Government Servants until the conclusion of the Departmental or Judicial proceedings and issue of final orders thereon. Therefore, when admittedly, as against the petitioners judicial proceedings as mentioned above have been pending and hence taking note of the same and by relying the above said Rule the second respondent has rightly rejected the claim of the petitioners for grant of gratuity. In such circumstances, this Court does not find any irregularity or infirmity in the orders impugned in the Writ Petitions in order to interfere with the same.

8. Hence the Writ petitions are dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Tiruppur District,
Tiruppur.
2. The Sub Collector,
Dharapuram,
Tiruppur District.

+4ccs to Mr.C.Prakasam, Advocate, S.R.No.82188, 82183,
82184, 82184
+1cc to the Government Pleader, S.R.No.82330

W.P.Nos.16026, 16033, 16041 &
16049 of 2019 and
W.M.P.Nos.15797, 15798, 15803, 15804,
15808, 15810, 15812 & 15814 of 2019

RGN(CO)
CS/06/12/2019