

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM :

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.18966 of 2019

and

W.M.P. Nos.18317 & 18318 of 2019

K.A. Vetrivel

...Petitioner

Vs.

1.The District Collector,
Erode District,
Erode.

2.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying 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.No.8548/2009/B1, dated 29.05.2019 and quash the same and consequently directing the respondents to disburse and Gratuity to the petitioner.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr. A.N.Thambidurai
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of the Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.No.8548/2009/B1, dated 29.05.2019 and quash the same and consequently directing the respondents to disburse and Gratuity to the petitioner.

2. According to the petitioner, he was appointed as Village Administrative Officer on 12.03.1984. On the date of retirement,

i.e. 30.09.2009, the petitioner was not allowed to retire from service and he was suspended from service. The petitioner has approached this Court by way of filing Writ Petition in W.P. No.15596 of 2015 seeking direction to the respondents to disburse the gratuity, Special Provident Fund, General Provident Fund and Encashment of Earned Leave etc. The said Writ Petition has been disposed of on 08.06.2015, by this Court, directing the first respondent, therein, to settle the retirement benefits of the petitioner. Pursuant to the order passed by this Court, the respondents, therein, disbursed the petitioner's retirement benefits except gratuity by proceedings dated 29.05.2019. Aggrieved by the same, the petitioner has come forward with the present Writ Petition challenging the said proceedings.

3. Learned counsel for the petitioner submits that there is no impediment for the respondents to disburse the gratuity that the criminal proceedings are pending against the petitioner and learned counsel also referred to a judgment by this Court passed in W.P. MD. No.10329 of 2019 dated 18.02.2019, wherein, this Court has considered the similar claim.

4. Learned Special Government Pleader appearing on behalf of the respondents would object the claim made by the petitioner, contending that the departmental proceedings relating to Anti-Corruption have been pending against the petitioner and therefore, the respondents have rightly withheld the payments of gratuity. Therefore, prays for the dismissal of the Writ Petition.

5. Admittedly, the respondents have already disbursed the entire retirement benefits, but except gratuity. It is pertinent to note that the pendency of criminal case or departmental proceedings, of course, is not an absolute bar for claiming gratuity, but in case where offences involves moral turpitude and that offence might have been committed during the course of employment, the withholding of gratuity is justifiable. In this regard, it is worthwhile to extract Proviso 3 to Rule 60 of the Tamil Nadu Pension Rules, 1978, which reads as follows:

Rule 60. Provisional Pension where departmental or judicial proceeding for enquiry by the Director of Vigilance and Anti Corruption may be pending.

(1) (c)....

Provided further that, where a Government Servant, against whom a departmental or judicial proceedings involving pecuniary loss to the 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-covered Government dues, if any, of such Government Servants, with interest."

6. Perusal of the above, it is clear that while permitting the Government servant to retire from service, without prejudice to the departmental proceedings, a portion of gratuity could be withheld to make good on the loss caused to the Government. In this regard, admittedly, departmental proceedings are pending since he was involved in anti-corruption charges. Therefore, this Court does not find any illegality to interfere with the impugned order passed by the respondents.

7. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

1.The District Collector,
Erode District,
Erode.

2.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.

+1cc to the Government Pleader, S.R.No.96604

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GJ(CO)
RN(09/06/2020)