

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.26806 OF 2014

P.Ranganathan

...Petitioner

Versus

The Treasury Officer,
District Treasury, Collectorate,
Namakkal District,
Namakkal.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records pursuant to the order passed by the respondent vide Na.Ka.No.3479/2007/A1 dated 13.12.2010 and to quash the same and direct the respondent to pay Sixth Pay Commission arrears, arrears of subsistence allowance from 04.05.2007 to 30.06.2010, gratuity, even leave encashment and Special Provident Fund within a stipulated time.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Mr.B.Anand,
Government Advocate

O R D E R

The relief sought for in the present writ petition is to call for the entire records pursuant to the order passed by the respondent vide Na.Ka.No.3479/2007/A1 dated 13.12.2010 and to quash the same and direct the respondent to pay Sixth Pay Commission arrears, arrears of subsistence allowance from 04.05.2007 to 30.06.2010, gratuity, even leave encashment and Special Provident Fund within a stipulated time.

2. It is the case of the petitioner, that the writ petitioner was working as an Accountant in the respondent office and on 04.05.2007, he was suspended from service, in pursuant to the trap case instituted against him by the DVAC. He attained his superannuation on 30.06.2010, but he was not permitted to retire on his superannuation for a reason that Case registered

against him is pending before the criminal Court. Hence, the petitioner has filed a writ petition in W.P.No.16898 of 2010 before this Court and the same was allowed on 02.11.2011 with a direction to the respondent to calculate and determine the provisional pension and to pay the same to him without prejudice to the Criminal proceedings.

2.1 Thereafter, the respondent issued a proceedings vide ROC No.3479/2007/A1 dated 14.02.2013 and paid subsistence allowance of 50% of the pay last drawn for the period from 04.05.2007 to 30.06.2010 to the petitioner. However, the petitioner was not paid 75% of the pay last drawn as mandated by the Tamil Nadu Subsistence Allowance Act. The provisional pension was also not paid to the petitioner as directed by this Court vide order dated 02.11.2011.

2.2 The respondent vide Na.Ka.No.3479/2007/A1 dated 13.12.2010 refused to pay retirement benefits to the petitioner. The petitioner had also made a Representation dated 08.03.2014 to the respondent for the payment of his terminal benefits, however, the same was not considered. Hence, left with no other alternative, the petitioner has filed the present writ petition for the relief stated supra.

3. The learned Government Advocate appearing for the respondent would argue that the petitioner is not eligible for payment of terminal benefits since he has not been permitted to retire from service under 56(C) of FR of Tamil Nadu Government. He would further argue that the petitioner was arrested on 03.05.2007 for accepting bribe amount of Rs.800/- from one Raja Balachandar and the Salem Vigilance Anti Corruption Special Cell registered a criminal case under Section 7 of Prevention of Corruption Act (hereinafter referred to as 'PC Act') against the petitioner in C.C.No.2 of 2008. He would also argue that the said criminal case was disposed of and he has also produced a copy of the said case status to that effect.

4. On perusing the copy of the case status of C.C.No.2 of 2008 produced by the learned Government Advocate appearing for the respondent, it is seen that the learned Chief Judicial Magistrate, Namakkal vide judgment dated 12.10.2017, convicted the petitioner and sentenced him to undergo S.I for 2 years with fine of Rs.1,000/- in default 1 month S.I, for offence u/s.7 of PC Act and undergo S.I for 2 years with fine of Rs.1,000/- in default 1 month S.I, for offence u/s. 13(2) r/w. 13(1)(d) of PC Act and these sentences run concurrently. No doubt, the criminal case which was pending against the petitioner ended in conviction.

5. Considering the facts and circumstances of the case, this Court directs the respondent to consider the petitioner's representation dated 08.03.2014 and after affording an opportunity to the petitioner by way of issuing a notice to him, pass appropriate orders on merits in the light of the judgment passed by the Chief Judicial Magistrate Court, Namakkal in C.C.No.2 of 2008, as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrr

To

The Treasury Officer,
District Treasury, Collectorate,
Namakkal District, Namakkal.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.95981
+1cc to the Government Pleader, S.R.No.96560

W.P.No.26806 of 2014

MP (CO)
CS/11/02/2020

सत्यमेव जयते

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