



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P.(MD)No.18232 of 2014
and
M.P.(MD).No.1 of 2014

P.Periannan

... Petitioner

Vs.

1.The Inspector General of Police,
South Zone,
Madurai.

2.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

3.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd respondent in M1/2286/2014 dated 11.08.2014 and to quash the same and also directing the 2nd and 3rd respondents to sanction pension and other pensionary benefits to the petitioner after deducting the subsistence allowance already paid to the petitioner.

For Petitioner : Mr.K.K.Senthilvelan

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order issued by the third respondent in proceeding dated 11.08.2014 for grant of provisional pension.

2.The writ petitioner was appointed as Grade-I Constable in the Police Department and on account of the allegations under the Prevention of Corruption Act, a criminal case was registered against the writ petitioner. The criminal case registered under the provisions of the Prevention of Corruption Act, is now pending



before the competent Criminal Court of law. However, the departmental disciplinary proceedings initiated against the writ petitioner ended with an order of punishment of compulsory retirement and accordingly, the writ petitioner was relieved from service on 31.08.2007. In fact, the writ petitioner was compulsorily retired from service with effect from 31.08.2007.

3.The learned counsel for the writ petitioner states that once the employee was allowed to retire from service by way of compulsory retirement, he is entitled atleast for the provisional pension till the disposal of the criminal case. However, the respondents have not considered even for grant of provisional pension and therefore, the petitioner is constrained to move the present writ petition.

4.The learned Government Advocate appearing on behalf of the respondents made a submission that the period of suspension was unable to be regulated and therefore, the pension proposals are not submitted by the competent authority. Undoubtedly, the period of suspension is to be regulated as per the rules in force. As far as the departmental disciplinary proceedings are concerned, the writ petitioner was already imposed with the punishment of compulsory retirement. Therefore, he was allowed to relieve from service. Therefore, the provisional pension as applicable in respect of the punishment of compulsory retirement is to be paid to the writ petitioner in accordance with the rules in force. However, the fact remains that during the pendency of the criminal case, the writ petitioner was imposed with punishment of compulsory retirement. In view of the fact that the departmental disciplinary proceedings had been concluded by the competent authority, atleast the provisional pension is to be sanctioned till the finalization of the actual pension to be paid for the employees who is relieved on the punishment of compulsory retirement. Under these circumstances, the respondents are directed to pay the provisional pension to the writ petitioner till the finalization of the pension proposals and after the finalization of the pension proposals all other benefits can be settled and till such time, the writ petitioner is entitled for provisional pension, which is to be sanctioned and paid as per the rules in force. The said exercise is directed to be done within a period of 12 weeks from the date of receipt of a copy of this order.

5.With the above direction, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //



To

1.The Inspector General of Police,
South Zone,
Madurai.

2.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

3.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

+1cc to Mr.K.K.Senthilvelan,Advocate, SR.No.75537

+1cc to the Spl.Govt.Pleader Sr.No.75398

Ns
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and
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