



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.7365 of 2014
and
M.P.(MD).Nos.1 and 2 of 2014

Gunasekaran

... Petitioner

Vs.

1.The Director of Co-operative Audit
Chennai-5.

2.The Assistant Director of Co-operative Audit,
Ramanathapuram.

... 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 impugned orders passed by the first respondent in his proceedings in RC.No.37961/2003/PA2 dated 27.02.2013 and the subsequent order passed by the first respondent in his proceedings in Rc.No.37961/2003/PA-2 dated 28.02.2013 and quash the same and consequently directing the respondents to disburse terminal and pension benefits within stipulated time as may be fixed by this Court.

For Petitioner : Mr.T.A.Ebenezer

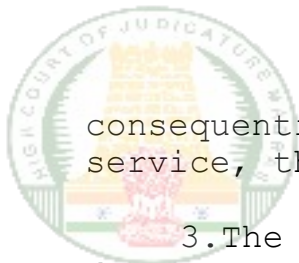
For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

ORDER

The order of suspension as well as not allowing the writ petitioner to retire from service in proceedings, dated 27.02.2013 and 28.02.2013 are under challenge in the present writ petition.

2.The writ petitioner was appointed as General Inspector of Co-operative Societies and promoted upto the post of Co-operative Audit Officer. On account of the criminal case registered against the writ petitioner in Crime No.17 of 2001 on the file of the CCIW/CID, Ramanathapuram, the writ petitioner was arrested and remanded into judicial custody and subsequently released on bail. The writ petitioner was placed under suspension on the eve of his retirement and his services were retained under Rule 56(1)(c) of the Fundamental Rules and his services are retained and accordingly, not permitted to retire. Challenging the order of suspension and the



consequential order not allowing the writ petitioner to retire from service, the present writ petition is filed.

3. The learned counsel for the petitioner states that the departmental disciplinary proceedings are already concluded, thus the terminal benefits are to be settled. However, the learned Additional Government Pleader appearing on behalf of the respondents informed that the criminal case registered against the writ petitioner in respect of the allegation of misappropriation of the funds of the Society, is pending. Thus, only after the disposal of the criminal case, the settlement of terminal and retirement benefits can be considered by the competent authorities in accordance with the Rules in force.

4. An employee, who is facing a criminal case is placed under suspension and his services are retained by invoking Rule 56(1)(c) of Fundamental Rules. Thus, only after the disposal of the criminal case and after the disposal of the departmental disciplinary proceedings, the competent authorities are empowered to consider the case of the writ petitioner for passing appropriate orders. In case of conviction, a review is to be undertaken by the authorities, if the writ petitioner is acquitted and the departmental disciplinary proceedings were completed, then appropriate orders may be passed by the authorities regarding the settlement of terminal and pensionary benefits.

5. This being the principles to be followed, the writ petitioner is not entitled to claim terminal and pensionary benefits, during the pendency of the criminal case. However, the writ petitioner is entitled to receive the subsistence allowance not exceeding the provisional pension as per Rules in force. If the subsistence allowance is not obtained, the writ petitioner is at liberty to submit an application along with all necessary documents and if any such application is received, the respondents are bound to consider for payment of subsistence allowance not exceeding the provisional pension as per the Rules in force. However, the settlement of terminal and pensionary benefits shall be considered only after the disposal of the criminal case as well as the departmental disciplinary proceedings.

6. With these observations, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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To

1.The Director of Co-operative Audit
Chennai-5.

2.The Assistant Director of Co-operative Audit,
Ramanathapuram.

+1 CC to M/s.SPL GP (SR-83183[F] dated 22/08/2019)

W.P.(MD)No.7365 of 2014

and

M.P.(MD) .Nos.1 and 2 of 2014

21.08.2019

ns

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