



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.17572 of 2018

and

W.M.P. (MD) No.15432 of 2018

WEB COPY

I.Gurusamy
Deputy Inspector of Survey (Compulsory Retired from Service)
No.6, Mettu Street,
South Lane, Srivilliputhur,
Virudhunagar District. ... Petitioner

vs.

1) The Principal Secretary/ Commissioner
of Survey & Land Records, Chennai.

2) The Additional Director of
Survey and Land Records, Chennai.

3) The Assistant Director of Survey
and Land Records,
Virudhunagar. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order made in Na.Ka.La2/8223/2006 dated 20.12.2016 passed by the 1st respondent and quash the same and consequently direct the respondents to disburse the entire terminal benefits payable to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.A.Rajaram

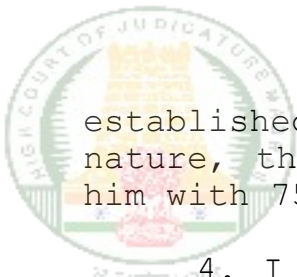
For Respondents : Mr.V.Anand, Government Advocate

O R D E R

The petitioner herein, who was charge sheeted and subjected to disciplinary proceedings, was imposed with the punishment of compulsory retirement by the impugned order dated 20.12.2016.

2. The learned counsel for the petitioner would submit that the petitioner herein, was due to retire on 30.06.2005 and at the verge of retirement, he was suspended on 28.06.2005 which is opposed to G.O.Ms.No.144 Personal and Administrative Reforms(N) Department, dated 08.06.2007. He would further submit that the criminal case lodged against the petitioner herein has also ended in acquittal through a judgment dated 16.11.2015 passed in C.C.No.91 of 2005. Apart from the same, he would also point out the latches in completing the disciplinary proceedings and imposing of punishment.

3. The learned Government Advocate appearing on behalf of the respondents reiterated the statements made in the counter affidavit and submitted that the charges were duly enquired into and



established beyond doubt and though the charges were severe in nature, the petitioner was imposed with punishment, which entitles him with 75% of the pension amount.

4. I have given careful consideration to the submissions made by the respective counsel appearing on either side.

5. Insofar as the first ground raised by the petitioner is concerned, the petitioner herein was suspended from services two days prior to his date of retirement. Though G.O.Ms.No.144, Personal and Administrative Reforms(N) Department, dated 08.06.2007 prescribes that the decision to suspend should be examined atleast three months prior to the date of retirement, the same G.O. also protects such an action in cases involving commission of delinquency which warrants imposition of a major penalty. The charges levelled against the petitioner herein that came to be subsequently proved were also serious in nature, so as to warrant a major penalty. As such, the reliance on G.O.Ms.No.144 may not be appropriate.

6. Insofar as the petitioner's acquittal from the criminal case in C.C.No.91 of 2005 is concerned, a perusal of the entire judgment reveals that the acquittal was not an honourable acquittal, but on the ground that the prosecution has failed to establish their case. Even otherwise, a mere acquittal in a criminal case will not preclude the action to be taken pursuant to the disciplinary proceedings.

7. Insofar as the latches are concerned, though there seems to be a delay in imposing of punishment, this Court has taken note of the fact that, going by the gravity of the charges and the punishment imposed, it can be said that the petitioner has already been extended with leniency of imposing of punishment of compulsory retirement in the place of a more severe punishment, thereby entitling him to draw 75% of the pension. As such, this Court is not inclined to interfere with the impugned order made in Na.Ka.La2/8223/2006, dated 20.12.2016 merely on the ground of latches.

8. For the foregoing reasons, I do not find any infirmity in the order passed by the 1st respondent. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected W.M.P. (MD) No.15432 of 2018 is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



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To

1) The Principal Secretary/ Commissioner
of Survey & Land Records,
Chennai.

2) The Additional Director of
Survey and Land Records,
Chennai.

3) The Assistant Director of Survey
and Land Records,
Virudhunagar.

+1 CC to M/s.A.RAJARAM, Advocate (SR-103485[F] dated 05/12/2019)

Order made in
W.P. (MD) No.17572 of 2018

Dated:
04.12.2019

SMA/27/12/2019/3P/5C