

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :26.02.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.1965 of 2020

N.Dhandapani

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. By the Principal Secretary cum
Revenue Administrative Commissioner,
Ezhilagam, Kamaraj Road, Chepauk,
Chennai 600 009.
2. The District Collector,
Krishnagiri District,
Krishnagiri 635 001.
3. The District Revenue Officer,
Collectorate,
Krishnagiri 635 001.
4. The Revenue Divisional Officer,
Divisional Office,
Krishnagiri 635 001.
5. The Tahsildar,
Taluk Office,
Uthangarai,
Krishnagiri District - 635 207. ... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to settle the retirement service benefits including pension and to grant the due increments from 19.02.2009 to 19.03.2016 to the petitioner for which he has made a representation dated 25.09.2018 to the respondents.

For Petitioner

: Mr.R.Malaichamy

For Respondent

: Mr. P.S.Sivashanmuga Sundaram
Spl. Govt. Pleader

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the respondents to settle the retirement benefits of the petitioner including his pension and other increments to which the petitioner is entitled till the date of his retirement.

2. The case of the petitioner is that he was working as a Village Administrative Officer and he attained the age of superannuation on 19.03.2016 and thereafter retired from service. The grievance of the petitioner is that his retirement benefits have not been settled by the respondents and therefore he made representations to the respondents seeking for retirement benefits. Since the same was not considered, the present Writ Petition has been filed before this Court.

3. The fourth respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

"3. It is submitted that thereafter the petitioner was transferred and posted to different villages in Krishnagiri District. The petitioner lastly worked as Village Administrative Officer of Veeranakupam Village in Uthangarai Taluk.

4. It is submitted that the petitioner has attained superannuation on the An of 31.03.2014. But the service register of the petitioner was under the custody of the fifth respondent/the Tahsildar, Uthangarai. The fifth respondent has sent the service register of the petitioner for regularization of service to the fourth respondent and then to 1st respondent. Due to frequent transaction of proposals along with the service register, the service register was misplaced. Later on the service register was traced out on 19.03.2016 and a verification of service register revealed that the petitioner has attained superannuation on the AN of 31.03.2014. Due to misplacement of service register the petitioner was not relieved from the service on the AN of 31.03.2014.

5. It is submitted that the petitioner well aware of the fact of his retirement date 31.03.2014. The petitioner after knowing fully well of the details of his date of

retirement the petitioner has suppressed the fact of his date of retirement to the higher officials and continued in service. Further the petitioner has continued in service till 19.03.2016. Due to misplacement of service register actual date of retirement of the petitioner has not been able to ascertained in time.

6. It is submitted that petitioner was relieved from the service immediately on 19.03.2016 and he was permitted to retire from service on the AN of 31.03.2014. Thereafter the petitioner himself paid the salary of Rs.4,29,808/- for the period from 01.04.2014 to 31.03.2016 and remitted the same in the Government Treasury.

7. It is submitted that the service of the petitioner was regularised by the Govt. in G.O.Ms.No.90, Revenue Ser (7(1)) Department, dated 22.02.2016 and the order was received to this respondent on 10.03.2016. Now proposals for probation of the petitioner has to be sent to Government. Now proposals for declaration of probation are being prepared and the probation proposals will be sent to Govt. shortly and on receipt of orders from the Government, pension proposals will be sent to Accountant General and the retirement benefits will be settled to the petitioner within a period of 6 months. Hence it is humbly prayed to disown the petition.

12. It is submitted that the averments made in paras 8 to 13 are not correct. The service of the petitioner was regularized on 22.02.2016 by the Govt. The orders to that effect was received to this respondent on 10.03.2016. Now action is being taken to send proposals for declaration of probation to the Govt. The said proposals are awaited from the 5th respondent/ the Tahsildar and on receipt of the proposals from the Tahsildar the same will be sent to the Government. There after on receipt of orders from the Government, pension proposals will be sent to Accountant General for sanction of retirement benefits if any."

4. Heard Mr.R.Malaichamy, learned counsel appearing for the petitioner and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing for the respondents.

5. It is clear from the records and the counter affidavit filed by the fourth respondent that the petitioner had actually reached the age of superannuation on 31.03.2014. However, he continued to work till 19.03.2016 due to the fact that his service records went missing. After his service record was found out, the fourth respondent came to know that the petitioner had worked almost two years extra and has also received the salary. This was brought to the notice of the petitioner and the petitioner also refunded the salary that was received by him from 01.04.2014 to 31.03.2016. This has been accepted by the fourth respondent in the counter affidavit.

6. The claim made by the petitioner is that his retirement benefits must be processed and settled at least up to 31.03.2014 and since the same has not been done, the petitioner was constrained to file the above Writ Petition.

7. The fourth respondent has taken a very specific stand in the counter affidavit to the effect that steps are being taken to send the pension proposal of the petitioner to the second respondent. The proposal must thereafter be placed before the first respondent for passing appropriate orders.

8. In view of the above development, there shall be a direction to the fourth respondent to immediately settle all the terminal benefits like Gratuity, Provident Fund, encashment of earn leave etc. to the petitioner within a period of six weeks from the date of receipt of copy of this order. The fourth respondent shall also forward the proposal for pension to the second respondent within a period of four weeks from the date of receipt of copy of this order. The second respondent on receipt of the proposal shall in turn forward the same to the first respondent for passing appropriate orders. This process shall be completed within a period of eight weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the respondents along with a copy of this order.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

jv

To

1. Principal Secretary cum
Revenue Administrative Commissioner,
Ezhilagam, Kamaraj Road, Chepauk,
Chennai 600 009.
 2. The District Collector,
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Divisional Office,
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 5. The Tahsildar,
Taluk Office,
Uthangarai,
Krishnagiri District - 635 207.
- +1cc to Mr.R.Malaichamy, Advocate C.C.No.16622
+1CC to M/s.Govt.Pleader, C.C.No.17189

W.P.No.1965 of 2020

Bs (CO)
nvi/27.05.2020

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