

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19565 of 2013

M.Dharmalingam

... Petitioner

Vs.

The Revenue Divisional Officer,
Kallakurichi,
Cuddalore District.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to regularize the service of the petitioner between 13.01.1998 to 07.01.1999 and pay the salary for the period and calculate it for pension purpose, grant selection grade with interest, grant interest for pension and gratuity from 01.03.2007 to 24.09.2010, pay the balance commutation along with interest for delayed payment of commutation and pay appropriate compensation for not granting provisional pension and other interest as fixed by this Hon'ble Court.

For Petitioner : Mr.S.Gopinathan

For Respondent : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking direction to the respondent to regularize the service of the petitioner during the period when he was under dismissal from service; to pay salary for the said period; to calculate it for pension purpose; grant selection grade with interest; grant interest for pension and gratuity for the belated payment; pay commutation along with interest; and to pay appropriate compensation for not granting provisional pension.

2.The case of the petitioner is that while the petitioner was working as Village Administrative Officer, he was issued with charge memo dated 24.01.1997 under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules and on 09.10.1998, the respondent passed an order of dismissal, dismissing the petitioner from service. Challenging the same,

the petitioner filed application before the Tamil Nadu Administrative Tribunal in O.A.No.8650 of 1998 and the Tribunal granted an order of interim stay on 08.12.1998.

3.It is the further case of the petitioner that on abolition of the Tribunal, O.A.No.8650 of 1998 was transferred to the file of this Court and re-numbered as W.P.No.34035 of 2006. By virtue of the interim order dated 08.12.1998 granted by the Tribunal, the petitioner continued in service and he retired from service on 28.02.2007. Thereafter, this Court vide order dated 21.01.2010, allowed W.P.No.34035 of 2006 and issued direction to the respondent to settle the petitioner's terminal benefits without any further delay.

4.It is the further case of the petitioner that though he retired from service on 28.02.2007, pension and other terminal benefits were belatedly paid to him. In this regard, the petitioner made representation dated 11.01.2011 to the respondent and since there was no response, has filed this writ petition.

5.The learned counsel appearing for the petitioner would submit that though the petitioner retired from service on 28.02.2007, pension and other terminal benefits were belatedly paid to him and the period from 13.10.1998 to 07.01.1999, when he was put under dismissal from service was not regularized. Provisional pension was also not sanctioned to the petitioner.

6.The learned counsel appearing for the petitioner would further submit that this Court may issue direction to the respondent to regularize the service of the petitioner between 13.10.1998 to 07.01.1999 and to pay salary for the said period; to calculate the same for pension purpose; to grant selection grade; to pay commutation and to pay appropriate compensation for not granting provisional pension and also issue direction to pay interest for the belated payments.

7.Per contra, the learned Special Government Pleader would submit that since disciplinary proceedings were pending against the petitioner, his terminal benefits were not settled immediately. He would further submit that there is no provision to sanction provisional pension for the petitioner and would further submit that the petitioner is also not eligible to get commutation. He would further submit that selection grade was already ordered and arrears was also paid to the petitioner.

8.The learned Special Government Pleader would further submit that since nothing was stated about the regularisation of the period during which the petitioner was under dismissal from service (13.10.1998 to 07.01.1999) in the order dated 21.01.2010, made in W.P.No.34035 of 2006, the said period was

treated as loss of pay and hence, the petitioner is not eligible for any salary during the said period. Hence, the entire terminal benefits due to the petitioner were settled in favour of the petitioner and there is no inordinate delay in settling the same and hence, the question of payment of interest does not arise.

9. Heard the arguments advanced on either side and perused the materials available on record.

10. In view of the submissions made by the learned Special Government Pleader, this Court is of the opinion that the entire terminal benefits due to the petitioner were settled in favour of the petitioner and there is no inordinate delay in settling the same and hence, the question of payment of interest does not arise. Hence, this Court is not inclined to grant the relief sought for in this writ petition.

11. The writ petition is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Revenue Divisional Officer,
Kallakurichi,
Cuddalore District.

+1 cc to Mr.S.gopinathan, Advocate, sr.31388

+1 cc to Government Pleader, sr.31507.

Jp(co)
krd 28/10

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