

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :28.10.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.35012 of 2013
and
W.MP.No.18398 of 2016

S.Rajewaran

..Petitioner

- Vs -

The Director of Local Fund Audit,
Kuralagam, Chennai 600 018.

..Respondent

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Ne.Mu.No.28356/Na.O.Sa.6/2012 dated 07.09.2012 passed by the respondent herein and quash the same and consequently direct the respondent to disburse the entire pensionary benefits admissible to the petitioner with 18% interest.

For Petitioner : Mr.S.Ilamvaludhi

For Respondent :Mr.A.N.Thambidurai, Spl.G.P.,

ORDER

This Writ petition was filed by the petitioner, to call for the records connected with the proceedings issued in Ne.Mu.No.28356/Na.O.Sa.6/2012 dated 07.09.2012 passed by the respondent herein and quash the same and consequently direct the respondent to disburse the entire pensionary benefits admissible to the petitioner with 18% interest.

2. The case of the petitioner is that he joined as Junior Assistant in the year 1968 and, thereafter, retired from service on 30.11.2004. While he was in service, three charges were framed, alleging that he has caused loss to the Municipality, and he has allowed one person to continue in service even after his superannuation and further he was wrongly awarded 5% of pay as Special Pay. While three writ petitions in WP.Nos.38897, 38898 and 38899 of 2004, was filed challenging the above orders, departmental proceedings was initiated culminating in the imposition of punishment of cut in pension @ Rs. 100/- per month for a period of six months and recovery of Rs.32,660/- from his

DCRG. Further, a sum of Rs.60,903/- which is alleged to be the excess amount paid towards subsistence allowance during the period when the petitioner was under suspension was also not paid to the petitioner. In spite of the imposition of punishment, the retirement benefits having not been settled in full, as pointed above, prompted the petitioner to file the present petition.

3. Learned counsel appearing for the petitioner, while reiterating the facts as mentioned in the affidavit filed in support of the petition, further highlighted that a sum of Rs.33,260/- having already been directed to be recovered from DCRG, the payment of subsistence allowance to the tune of Rs.60,903/- which is sought to be recovered is not proper and, therefore, the petitioner is entitled for payment of the amount of Rs.27643/-, which is amount payable to the petitioner from the amount of Rs.60903/- less the amount of Rs.33260/-.

4. Though very many grounds raised in the affidavit filed in support of the petition, learned counsel appearing for the petitioner submitted that this Court may direct the respondents to settle the pensionary benefits due to the petitioner, pursuant to the imposition of punishment after deducting the amount of Rs.33260/- from the subsistence allowance of Rs.60903/- due to the petitioner within a prescribed time fixed by this Court.

5. Learned Special Government Pleader has no serious objection to the issuance of such a direction.

6. In view of the conceded stand taken by the learned counsel on either side, the petitioner having already been visited with punishment in the departmental proceedings, this Court, without going into the merits of the issue, directs the respondents to calculate and pay the pensionary benefits, if any, due and payable to the petitioner after deducting the sum of Rs.33,260/- from the sum of Rs.60,903/- within a period of 3 months from the date of receipt of copy of this order.

7. This Writ petition is disposed of with the aforesaid observation and direction. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To
The Director of Local Fund Audit,
Kuralagam, Chennai 600 018.

+1 cc to The Government Pleader, Sr.No. 35029

W.P. NO.35012 of 2013

SPD (CO)
RMP (27/11/2020)



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