



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD)No.8847 of 2020

P.K.Periyasamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Secretariat, St. George Fort,
Chennai.

2.The Director of Handlooms and Textiles,
Kuralagam, II Floor,
Chennai - 108.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to pass final orders in pursuance of the charge memos issued by the 2nd respondent in his proceedings dated 01.02.1993, 14.05.1997 and 09.01.1998 as indicated by the 2nd respondent in his proceedings in Na.Ka.No.25993/2019/E1 dated 13.03.2020 and to disburse the pensionary benefits by considering the petitioner's representation dated 15.07.2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar for
M/s.Ajmal Associates

For Respondents : Mr.J.Padmavathi Devi, Spl.G.P.

ORDER

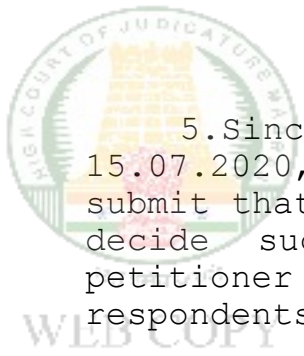
The prayer sought for in this writ petition is for a writ of mandamus, directing the 1st respondent to pass final orders in pursuance of the charge memos issued by the 2nd respondent in his proceedings dated 01.02.1993, 14.05.1997 and 09.01.1998 as indicated by the 2nd respondent in his proceedings in Na.Ka.No.25993/2019/E1 dated 13.03.2020 and to disburse the pensionary benefits by considering the petitioner's representation dated 15.07.2020 within the period that may be stipulated by this Court.



2.It is the case of the petitioner that, he was working as Joint Director at the respondent department and he attained superannuation on 30.04.1998. However, he was not permitted to retire from service on superannuation, since there was a disciplinary proceedings pending against him, accordingly, he was placed under suspension enabling the employer to complete the disciplinary proceedings.

3.Then, on completion of disciplinary proceedings, it was ended in punishment of dismissal from service against the petitioner. Challenging the said punishment, he approached this Court and filed writ petition. This writ Court, having considered the relative merit of the issue raised therein, has come to the conclusion that, the punishment of dismissal of service inflicted against the petitioner can be modified into compulsory retirement and accordingly, that order was passed by the writ Court. As against which, intra Court appeal was filed by the respondents, where also, a Division Bench of this Court, by order dated 10.09.2018 made in W.A.(MD) No.1448 of 2014, having confirmed the order of writ Court, has directed the respondents to release the retiral and pensionary benefits payable to the petitioner taking into account the fact that the petitioner's punishment since has been modified as compulsory retirement. Thereafter, it seems that the pension payable temporary from 01.05.1998 to 30.09.2019 was paid to the petitioner and thereafter, pension according to the petitioner has not been paid. Subsequently, he filed yet another writ petition in W.P.(MD) No.2640 of 2020 to get a no objection certificate and also to get full pension with full retiral benefits, there also, a direction seems to have been issued to consider the request of the petitioner.

4.Pursuant to all these developments, now, by communication dated 13.03.2020, the respondents have intimated the petitioner stating that, apart from the disciplinary proceedings, which ended in punishment, which has been subsequently modified as compulsory retirement, there are three more charges dated 01.02.1993, 14.05.1997 and 09.01.1998 pending against the petitioner. Therefore, in this regard, what action shall be taken in respect of three pending charges against the petitioner has to be decided after getting necessary orders from the Government, for which, the issues have already been referred to the Government. Unless and until the Government takes a decision, further action cannot be taken there, till such time, whatever pension payable to the petitioner cannot be disbursed or decided to be disbursed. On receipt of such communication dated 13.03.2020, the petitioner has given a detailed representation on 15.07.2020, requesting the respondents to consider his request for releasing of the pensionary and other benefits payable to him since for the past 20 years after retirement, he has been struggling to get such benefits and he is at the age of 80 years, an early decision to be taken on these pending charges and accordingly, his request may be considered positively.



5. Since the said request having been made by the petitioner on 15.07.2020, the learned counsel appearing for the petitioner would submit that, a suitable direction can be given to the respondents to decide such request made through the representation of the petitioner and accordingly, early decision can be taken by the respondents.

6. I have heard the submissions made by the learned Special Government Pleader appearing for the respondents, who would submit that, as has been admitted by the petitioner, there are three more charges pending right from 1993 onwards and those charges since have been pending, unless and until a decision is taken, the request of the petitioner to release his full pension as well as the retiral benefits, for which, he is entitled to cannot be decided and since, the issue has already been referred to the Government, awaiting orders, the respondents to act upon, therefore, that has been communicated by the respondents to the petitioner on 13.03.2020. However, now, since the petitioner has given representation latest by 15.07.2020, that would also be considered on merits, within a time frame to be stipulated by this Court in this regard.

7. On considering the said submissions made by both sides and having perused the materials placed before this Court, this Court is of the view that, since the petitioner, after retirement, has been waiting for 20 years to get his full retiral and pensionary benefits, assuming that three more charges are pending of the year 1993, 1997 and 1998, a decision could have been taken by the respondents by this time either to proceed against the petitioner in respect of those charges or not. This Court also is of the considered opinion that, the Government will take a suitable decision in this regard having in mind that the petitioner is already 80 years old and the charges are of the year 1993, 1997 and 1998. Therefore, at this length of time, whether any fruitful action would be possible to take a disciplinary proceedings in respect of those charges, can also be taken into account and having borne in mind of these developments, the Government can take a final decision at the earliest, by considering the advanced age of the petitioner, who is already at 80.

8. In view of the above, this Court is inclined to pass the following order:

"The respondents, especially, the 1st respondent is hereby directed to decide the further course of action to be taken in respect of three charges dated 01.02.1993, 14.06.1997 and 09.01.1998 against the petitioner, who retired from service 20 years back and is of 80 years of old, accordingly, communicate the same to the 2nd respondent, so that the 2nd respondent can act upon on the request of the petitioner dated



15.07.2020 with regard to the plea of the petitioner for releasing of the full retiral and pensionary benefits and the needful as indicated above shall be undertaken by the 1st respondent, within a period of 12 weeks from the date of receipt of a copy of this order."

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Arul

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to Government,
State of Tamil Nadu,
Handlooms, Handicrafts, Textiles and
Khadi Department,
Secretariat, St. George Fort,
Chennai.

2. The Director of Handlooms and Textiles,
Kuralagam, II Floor, Chennai - 108.

+1 CC to the SPL GP (SR-13810[F] dated 07/08/2020)

W.P. (MD)No.8847 of 2020

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CS (03.09.2020) 4P 4C