



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.13207 of 2019 and

WMP(MD) No.9847 of 2019

WEB COPY

R. Muniyandi

...Petitioner

Vs

1. The Commissioner

Commissionerate of Municipal Administration

Ezhilagam

Chepauk

Chennai - 600 005

2. The Assistant Director of Local Audit Fund

Directorate of Local Fund Audit

Kurazhagam IV Floor

Chennai - 600 108

3. The Commissioner

Paramakkudi Municipality

Ramanathapuram District - 623 707

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to impugned order passed by the third respondent in Na.Ka.No.3142/2011/H1 dated 05.07.2017 and quash the same as arbitrary and illegal and consequently direct the third respondent to disburse the retirement benefits, monthly pension, pension arrears, commutation of pension and all other service benefits to the petitioner with interest at the rate of 18% per annum from the date of retirement of the petitioner.

For Petitioner : Mr. A.Mohan

For Respondents : For R1 & R2 - Mr. R.Sethuraman

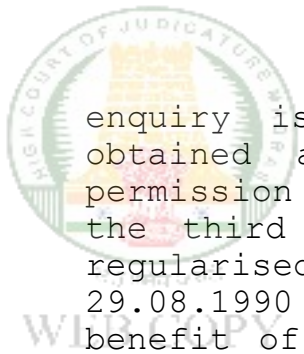
Special Government Pleader

For R3 - Mr.M.Kannan

O R D E R

This Writ Petition has been filed to call for the records relating to the impugned order passed by the third respondent in Na.Ka.No.3142/2011/H1 dated 05.07.2017 and quash the same as arbitrary and illegal and consequently direct the third respondent to disburse the retirement benefits, monthly pension, pension arrears, commutation of pension and all other service benefits to the petitioner with interest at the rate of 18% per annum from the date of retirement of the petitioner.

2. Through the impugned order dated 05.07.2017, the respondents had rejected the petitioner's request for disbursement of terminal benefits on the ground that the proposed Departmental



enquiry is contemplated alleging that the Writ Petitioner has obtained a free house site patta on 29.08.1990 without the permission of the respondents. The petitioner was an employee under the third respondent Municipality as Sweeper, whose service was regularised on 03.08.1998. He had obtained free house site patta on 29.08.1990 and while during 2002, the petitioner had availed the benefit of free housing scheme and constructed a free house under the said scheme. According to the respondents, the act of the writ petitioner was contrary to the Government Servants Conduct Rules and therefore show cause notice came to be issued on 28.03.2011. The petitioner had submitted his explanation stating that he had obtained the free house site patta before joining the service and based on his explanation, further action against the petitioner was dropped. Thereupon the petitioner had reached the age of superannuation on 30.04.2016 and the third respondent also permitted him to retire from service on 30.04.2016.

3. It is stated that the third respondent herein had received information that the petitioner had obtained free house site under the scheme, after his joining the service and therefore the petitioner's pension proposals were ordered to be withheld, based on the request of the third respondent. When the petitioner made a request for release of the retirement benefits, the present impugned order came to be passed stating that the departmental action is contemplated against him and therefore the retirement benefits have been withheld.

4. Rule 9(2)(b) of Tamil Nadu Pension Rules describes the procedure for institution of departmental proceedings that when the government servant is not in service, the circumstances under which such departmental proceedings against the retired government servant would be, either on sanction of the government or should be for a event which took place within four years from the date of the institution of the departmental proceedings.

5. In the instant case, the proposed departmental action is for a event which took place more than four years before the respondents have even contemplated to take departmental action. As a matter of fact, till date such action is yet to be commenced. The fact remains that the petitioner had retired on 30.04.2016 and for almost four years, the respondents have been contemplating to take action against the petitioner.

6. In the light of the above observations, this Court is of the view that the third respondent herein would not be empowered to initiate departmental action against the petitioner, after his retirement, in the absence of any specific bar under the Tamil Nadu pension Rules, apart from Rule 9 (20 (b)). Consequently, the action of the respondents in withholding the petitioner's retirement benefits is illegal.



7. In the result, the Writ petition stands allowed and the impugned order dated 05.07.2017 in Na.Ka.No.3142/2011/H1 is hereby quashed. Consequently, there shall be direction to the third respondent to disburse the petitioner's retirement benefits including the arrears of pension and other incidental monetary benefits to which the petitioner may be entitled to along with the interest at the rate of 6% per annum from the date of petitioner's retirement to the date of actual disbursement. The third respondent shall ensure that the pension proposals be forwarded to the first and second respondents herein atleast within four weeks from the date of receipt of a copy of this order and the respondents 1 & 2 shall ensure that the disbursement is made atleast within a period of eight weeks therefrom.

8. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD I)

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/ /2020

Sub Assistant Registrar(CS)

vrn

To

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Chepauk, Chennai - 600 005

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+1 CC to M/s.SPL.GP (SR-1348[F] dated 10/01/2020)

+1 CC to M/s.A.MOHAN, Advocate (SR-1287[F] dated 10/01/2020)

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==KK/SAR/10.02.2020/3P-6C/