



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.11966 of 2020

Ramaiah

... Petitioner

Vs.

1) The District Collector,
Tirunelveli District,
Tirunelveli.

2) The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

3) The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to disburse all retirement benefits including gratuity and other attendant benefits to the petitioner by considering his age and his livelihood on the basis of the petitioner's representation dated 16.07.2020.

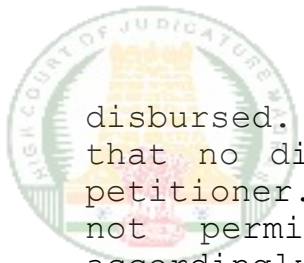
For Petitioner	: Mr.M.Sankar
For Respondents	: Mr.A.Thiyagarajan, Government Advocate.

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, to direct the respondents to disburse all retirement benefits, including gratuity and other attendant benefits to the petitioner, by considering his age and his livelihood on the basis of the petitioner's representation, dated 16.07.2020.

2. The petitioner was working as a Village Administrative Officer at Tirunelveli District. In the year 2011, a criminal case has been filed against him for the alleged offences punishable under Sections 147, 148, 323 & 506(ii) of I.P.C in Crime No.159 of 2011 where, charge sheet has been filed in the year 2012 in C.C.No.80 of 2012 before the Judicial Magistrate Court, Boothapandi, Kanyakumari District and the said criminal case is still pending and the trial is yet to commence.

3. In the meanwhile, the petitioner has reached the age of superannuation. However, he was not permitted to retire from service, because of which, his retiral benefits has also not been



disbursed. The learned counsel for the petitioner further submits that no disciplinary action seems to have been taken against the petitioner. Therefore, the petitioner, in order to review the order, not permitting the petitioner to retire from service and accordingly, permit the petitioner to retire, pending disposal of the criminal case, as it will take still longer time to complete and accordingly, release the retiral benefits payable to the petitioner, the petitioner has given a representation on 16.07.2020 and in order to consider the same, seeking for a Writ of Mandamus, the present writ petition has been filed.

4. Heard Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondents, who would submit that, since admittedly there is a criminal case pending against the petitioner, where, charge sheet has been filed, unless and until, a decision is made by the competent criminal Court on the charges framed against the petitioner, the respondent employer cannot decide the fate of the petitioner, as to whether, he can be permitted to retire peacefully, or some action has to be taken depending upon the outcome of the criminal case. Only in that circumstances, the request of the petitioner to review the order passed against him, not to permit him to retire is sought to be reviewed, and therefore, for the aforesaid reasons, such review cannot be made at this juncture, he contended.

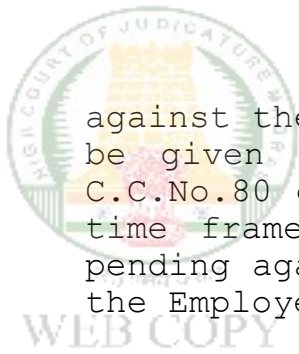
5. I have heard the learned counsel appearing for both sides and have perused the materials placed before this Court.

6. It is a case, where, not because of the pendency of the disciplinary proceedings, the petitioner was not permitted to retire from service but because of the pendency of the criminal case, where, charge sheet also has been filed and he was not permitted to retire. Unless and until, the fate of the criminal case is made known either way, we cannot expect that the respondent Employer to take a decision as to whether the petitioner can be permitted to retire as of now or not.

7. If at all any disciplinary proceedings is initiated and same is prolonged, without showing any progress for several years, like the present one, certainly, this Court can show its indulgence to decide the disciplinary proceedings within a time frame and accordingly, decide the request of the petitioner as to whether he is entitled to get retirement peacefully or not.

8. However, since it is a criminal case pending before the concerned Criminal Court, we cannot give such a direction to the respondents to revise the order already passed against the petitioner, on not to permit him to retire on his superannuation.

9. In that view of the matter, this Court feels that, instead of giving a direction to the respondents to review the order passed



against the petitioner, on not to retire peacefully, a direction can be given to the concerned Judicial Magistrate Court to take up C.C.No.80 of 2012 on priority basis and complete the trial within a time frame and depending upon the outcome of the criminal case, pending against the petitioner, appropriate decision can be taken by the Employer i.e., the respondents.

10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) The Judicial Magistrate, Boothapandi, Kanyakumari District is hereby directed to take up C.C.No.80 of 2012 on priority basis and complete the trial within a period of six months from the date of receipt of a copy of this order; and

(ii) Depending upon the outcome of the decision to be made by the aforesaid criminal Court, in the case pending against the petitioner, it is open to the respondents to take a decision by revising the earlier order passed by the petitioner, on not to permit him to retire on superannuation and accordingly, a decision can be taken, only based on the outcome of the decision to be made by the competent criminal court, as indicated above.

11. With these directions, the writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sts

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 Judicial Magistrate,
Boothapandi,kanyakumari District.

2)The District Collector,
Tirunelveli District,
Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>



3) The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

4) The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

W.P. (MD) No.11966 of 2020
17.09.2020

CK(CO)
KB(02.12.2020) 4P 5C