



WEB COPY

W.P.(MD)No.19768 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P(MD)No.19768 of 2017

V.Ramachandran

: Petitioner

Vs.

1.The Registrar (Vigilance Cell),
High Court, Chennai - 104.

2.The Principal District Judge,
Theni.

: Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Mandamus, to direct the respondents to issue Certificate of Clearance to the effect that there was no enquiry is pending against the petitioner and there was no due to the Government for repayment by the petitioner to get his pensionary benefits within the time stipulated by this Court.

For Petitioner : Mr.C.Jeganathan
for M/s.Veera Associates
For R1 : Mr.D.Sivaraman

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents to issue Certificate of Clearance to the effect that no enquiry is pending against the petitioner and there was no due to the Government for repayment by the petitioner to get his pensionary benefits.

2.The petitioner was initially appointed as Junior Assistant in Judicial Second Class Magistrate Court, Usilampatti on 08.11.1985 and then, he was promoted as Assistant and as Head Clerk and worked as Central Nazar and Sheristadar of Subordinate Court, Palani. Thereafter, on 02.02.2012, the petitioner was promoted as Sheristadar of District Court, Dindigul and then he was transferred to Theni District on 01.04.2014. The petitioner was permitted to retire on 30.06.2017 on attaining the age of superannuation without prejudice to the pending complaint against the petitioner, which was of the year 2007.



3. In the affidavit filed in support of this Writ Petition, the petitioner stated that he had rendered 31 years of unblemished service. It is further stated that the petitioner was not allowed to get pensionary benefits, in view of the fact that the petitioner was allowed to retire subject to the outcome of pending complaint. It is now admitted before this Court that no further proceeding is initiated pursuant to the complaint and no disciplinary action is initiated so far against the petitioner. No charge memo was issued to the petitioner. In such circumstances, this Court is unable to see any justification for denying the petitioner getting his pensionary benefits, based on a complaint, which was never taken on file or processed for more than 13 years.

4. No reason or explanation is stated by the respondents in respect of their total inaction to take further action based on the complaint, that was received in 2007. The learned Counsel for the first respondent has produced before this Court, the copy of communication of the Assistant Registrar (Vigilance), Madurai Bench of Madras High Court, dated 22.01.2020. From the communication it is seen that, despite a communication received from the Registrar (Vigilance), Madras High Court, the complaint, that was made against the petitioner, could not be searched. It is also seen that despite the Honourable Portfolio Judges of Dindigul, made an observation in August-2017 that the enquiry should be conducted and further action should follow as per law, nothing happened. Therefore, this Court is of the view that the respondents have not shown due diligence either tracing out the complaint or find out the truth or otherwise of the allegation in the so called complaint for all these years.

5. The learned Principal District Judge, Theni has given a certificate of Commemoration on 14.03.2017, certifying that the petitioner has completed 25 years of unblemished service as on 18.11.2010. It is stated that the unblemished service rendered by the petitioner is commemorated by the Government. In such circumstances, this Court is of the view that the pendency of mere complaint without further progress for 13 years is unfortunate and the petitioner cannot be put to untold sufferings in view of the pendency of the complaint, which was never enquired into and the truth or otherwise of the complaint was not enquired so far. Hence, this Writ Petition is allowed and the respondents are directed to issue certificate of clearance on merits and the order permitting the petitioner to retire subject to disciplinary proceedings should be treated as inoperative, so that the complaint will not stand in the way for the petitioner to get his retirement benefits. The respondents are directed to pay retirement benefits within a period of three months from the date of receipt of a copy of this order. If there is further delay, the petitioner is entitled to seek interest.



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6.In fine, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

cmr

To

1.The Registrar (Vigilance Cell),
High Court, Chennai - 104.

2.The Principal District Judge,
Theni.

+1 CC to M/s.D.SIVARAMAN (SR-10813[F] dated 10/03/2020)

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-11004[F] dated 11/03/2020)

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CN(13.05.2020) 3P 5C