

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.02.2021
CORAM
THE HON'BLE MR.JUSTICE R. SURESH KUMAR
Writ Petition No.16504 of 2011

R.Geetha

... Petitioner

-Vs-

1.The Director
Town and Country Planning
No.807, Anna Salai, Chennai 600 002.

2.Assistant Director
Town and Country Planning
Thanjavur District. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents herein to regularize the petitioner's service and direct the respondents to disburse all the retirement benefits which all entitled to the petitioner.

For Petitioner : No appearance
For Respondents : Mr.K.Magesh,
Special Government Pleader

O R D E R

The prayer sought for herein is to direct the respondents herein to regularize the petitioner's service and direct the respondents to disburse all the retirement benefits which all entitled to the petitioner.

2. The petitioner was in service in the respondent Department and in July 2001, she was relieved and was directed to appear before the Special Commissioner for an enquiry by letter dated 02.07.2001. Thereafter, she was transferred and posted at Chengalpet, where she did not immediately join and only on 01.03.2002 she joined in Chengalpet, where she worked continuously till she attained superannuation from service on 30.09.2007.

3. After retirement, though the petitioner was offered the retirement benefits, she did not receive the same for the reason that, the period between 11.07.2001 and 28.02.2002 ie., till she joined Chengalpet should be regularised. Since the same was not done, the petitioner has filed the present writ petition in the year 2011 with the aforesaid prayer.

4. When the case is taken up for hearing, there is no representation for the petitioner. However, in view of the pendency of the writ petition for the past nearly a decade, this Court is inclined to take up the matter and decide the same on merits, on the basis of the available records, of course after hearing the learned Special Government Pleader.

5. Learned Special Government Pleader Mr.Magesh has relied upon the following paragraph in the counter affidavit.

" 22. With regard to the averments made in grounds, it is submitted that the petitioner Tmt.R.Geetha, Superintendent of Hosur New Town Development Authority Office who had retired from Government Service on superannuation on 30.09.2007 A.N., under FR 56(1).

The following pensionary benefits are sanctioned and encashed to the individual based on the AG's letter No.P13/111/G83/399/AR 2007-08/477 dated 05.11.2007.

	Encashment Amount Rs.	Encashment Date
i) DCRG	Rs.2,33,856/-	27.12.2007
ii) E.L. encashment	Rs.1,36,624/-	27.12.2007
iii) SPF 1984	Rs.2960+11471 +10000	10.03.2008
iv) SPF 2000	Rs.4150 + 6075	10.03.2008
v) VI Pay Commission Arrear	Rs.6609/-	07.01.2008
vi) Bonus for the year 2007	Rs.1000/-	05.02.2008
Total	Rs.4,08,595/-	

The individual has already been informed to collect her pensionary benefits over by phone and also letter from Member Secretary, Hosur New Town Development Authority as follows:-

- i) 27.12.2007 - Telephone message from Member Secretary, Hosur New Town Development Authority
- ii) 04.01.2008 - Letter from Member Secretary, Hosur New Town Development Authority addressed to the individual.

29.01.2008

04.02.2008

13.03.2008

25.04.2008

17.06.2008
02.07.2008
iii.28.02.2008

- Letter from CTCP,
Chennai

Lr.No.18973/07/32
dated 28.02.2008.

Inspite of several efforts taken by this department, Tmt.R.Geetha, Superintendent (Retired) had neglected and returned the pensionary benefits.

To avoid the financial loss to Government, the Member Secretary of Hosur New Town Development Authority was instructed to remit back the pensionary benefits amount of the individual to respective Government account after obtaining proper opinion obtained from the Sub-Treasury Officer, Hosur.

The Member Secretary of Hosur, New Town Development Authority has informed that the pensionary benefits of the individual was remit back into Government Account on 24.09.2009."

6. By relying upon the said averments, the learned Special Government Pleader would submit that, in support of the leave period, there was no proper leave application filed by the petitioner and in view of the same, leave period was not regularised. However, the said issue also has not been adjudicated till the petitioner finally retired in the year 2007 and after retirement in the year 2007, immediately all the benefits payable to the petitioner by way of D.C.R.G., and other related benefits have been sanctioned to the petitioner between 2007 and 2008 amounting to Rs. 4,08,595/- and the same was paid to the petitioner. However, despite repeated requests and reminders made by the respondents, the petitioner has not come forward to receive the same, and therefore it has been kept in the Government Account.

7. In view of the above, the learned Special Government Pleader would submit that, the regularisation of the leave period in the year 2001-02 is not feasible, as no proper leave application was submitted by the petitioner even on medical grounds for a period of 6 to 7 months and even though the retirement benefits were offered to the petitioner, the same has not been received by the petitioner. In fact, she has refused to receive the same. Therefore, this writ petition is liable to be rejected on that ground itself, he contended.

8. I have considered the submissions made by the learned Special Government Pleader and have perused the materials placed on record.

9. If at all the petitioner has got any grievance over the leave period ie., between 11.07.2001 to 28.02.2002 ie., till she joined Chengalpet should be regularized, the said issue should have been agitated then itself. However, she

joined in the new transferred place at Chengalpet on 01.03.2002 and was continuously working there till her superannuation on 30.07.2007 and thereafter also when the D.C.R.G., was offered with other benefits immediately in the year 2007-08 to the petitioner, the same was refused to be received by the petitioner. This action on the part of the petitioner cannot be appreciated.

10. Moreover, till the superannuation or till the retirement, the petitioner has not agitated the issue with regard to the leave period in the year 2001-02 and therefore, the same cannot be clubbed with the present issue, where the petitioner cannot have any plausible reason to reject the D.C.R.G., offered to her. Therefore, this Court feels that, if at all the petitioner has still not received the D.C.R.G., as has been quoted in Para 22 of the counter affidavit, the same can very well be disbursed to her, if it has not already been disbursed. Apart from this, the petitioner may not be entitled to get any other benefits including regularization of the leave period between 11.07.2001 to 28.02.2002, as the said issue was not urged or agitated by the petitioner till her superannuation.

11. In view of the above discussion, this Court is inclined to dispose of this writ petition with the following order.

That the respondents are directed to disburse the D.C.R.G., and other benefits payable to the petitioner, if the same has not been received by the petitioner, as the same was offered to her in the year 2007-08 itself. This apart, the petitioner is not entitled for any other relief as claimed by her in this writ petition. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy// Sub Assistant Registrar

KST

To

1. The Director, Town and Country Planning
No.807, Anna Salai, Chennai 600 002.

2. The Assistant Director, Town and Country Planning
Thanjavur District.

+1 cc to Government Pleader Sr.No. 8791

W.P.No.16504 of 2011

KV (CO)

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A.SK 12/07/2021