

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.26784 of 2005

P.Nallusamy

...

Petitioner

-Vs-

1. The Additional Director General of Prisons  
Egmore,  
Chennai - 8.
2. The Range Deputy Inspector General of Prisons  
Coimbatore Range,  
Coimbatore.
3. The Superintendent  
Central Prison,  
Salem.

...

Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records comprised in proceedings No.47651/EW1/2004 on the file of the Additional Director General of Prison, Chennai-8 / first respondent, dated 25.01.2005 confirming the orders of the appellate authority / second respondent as made in his proceedings No.5141/CA/2004, dated 20.09.2004 and the order of the third respondent as made in proceedings No.18191/Po.1/2003, dated 16.06.2004 and quash the same and consequently, direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.V.B.Perumal Raj

For Respondents : Mr.K.Magesh  
Special Government Pleader

O R D E R

The prayer sought for herein is for a writ of certiorarified mandamus, calling for the records comprised in proceedings No.47651/EW1/2004 on the file of the Additional Director General of Prison, Chennai-8 / first respondent, dated 25.01.2005 confirming the orders of the appellate authority / second respondent as made in his proceedings No.5141/CA/2004,

dated 20.09.2004 and the order of the third respondent as made in proceedings No.18191/Po.1/2003, dated 16.06.2004 and quash the same and consequently, direct the respondents to reinstate the petitioner in service with all attendant benefits.

2. The petitioner was working in the Jail Department and there has been a disciplinary proceeding initiated against him pursuant to the charge memo issued in this regard, where three charges have been framed against him.

3. Thereafter, enquiry was conducted and Enquiry Officer has given his report on 20.04.2004, where the three charges according to the Enquiry Officer framed against the petitioner had been proved.

4. Thereafter, after giving reasonable opportunity to the petitioner, the Disciplinary Authority for the said proven charges, has inflicted the punishment of compulsory retirement by order, dated 16.06.2004. As against which, appeal has been filed before the Appellate Authority, who also confirmed the said punishment by order, dated 20.09.2004. Thereafter, further appeal / revision has been filed, where also orders of the Disciplinary Authority and Appellate Authority have been confirmed on 25.01.2005. Challenging those orders, the present writ petition has been filed.

5. Today when the case is taken up for hearing, the learned counsel appearing for the petitioner, on instructions would submit that, though the orders of punishment of compulsory retirement are under challenge in this writ petition, if at all the respondents, pursuant to the said punishment of compulsory retirement, disburse the pension and other benefits payable to the petitioner at the earliest, that would suffice to the petitioner and if that is ensured, the challenge made in this writ petition can be given up.

6. For the said submission made by the learned counsel appearing for the petitioner, Mr.K.Magesh, learned Special Government Pleader appearing for the respondents, on instruction would submit that, in view of the pendency of this writ petition, so far the petitioner has not given any application by way of pension papers and once the pension papers are filed by the petitioner and forwarded by the concerned authorities, certainly, the same would be processed within a time frame and accordingly, whatever the pensionary benefits and other retiral benefits payable to the petitioner would be calculated and be paid or disbursed within a time frame.

7. In view of the said submissions made by the learned counsel appearing for both sides, taking into account the said stand taken by the petitioner as well as the learned Special Government Pleader appearing for the respondents, this Court is

inclined to dispose of this writ petition with the following orders :

(i) that the challenge made in the impugned orders since have not been further persuaded, this Court has not gone into the merits of the challenge and accordingly, the impugned orders are sustained.

(ii) However the petitioner since has only been inflicted with the punishment of compulsory retirement, he is entitled to get all pensionary and other retiral benefits. Therefore within a period of two weeks from the date of receipt of a copy of this order if the petitioner give his proper application for getting pensionary and retiral benefits to the immediate employer along with this order, on receipt of the same, the immediate employer shall forward the pension papers to the concerned authority within a period of four weeks thereafter and on receipt of such forwarding of the pension proposals by the immediate employer of the petitioner, the same shall be processed by the respondents and accordingly, the pensionary benefits as well as the retiral benefits payable to the petitioner shall be calculated and be disbursed to the petitioner within a period of three months from that date.

8. With these direction, this writ petition is disposed of.  
No costs.

-s/d-

सत्यमेव जयते Assistant Registrar

True Copy

Sub-Assistant Registrar

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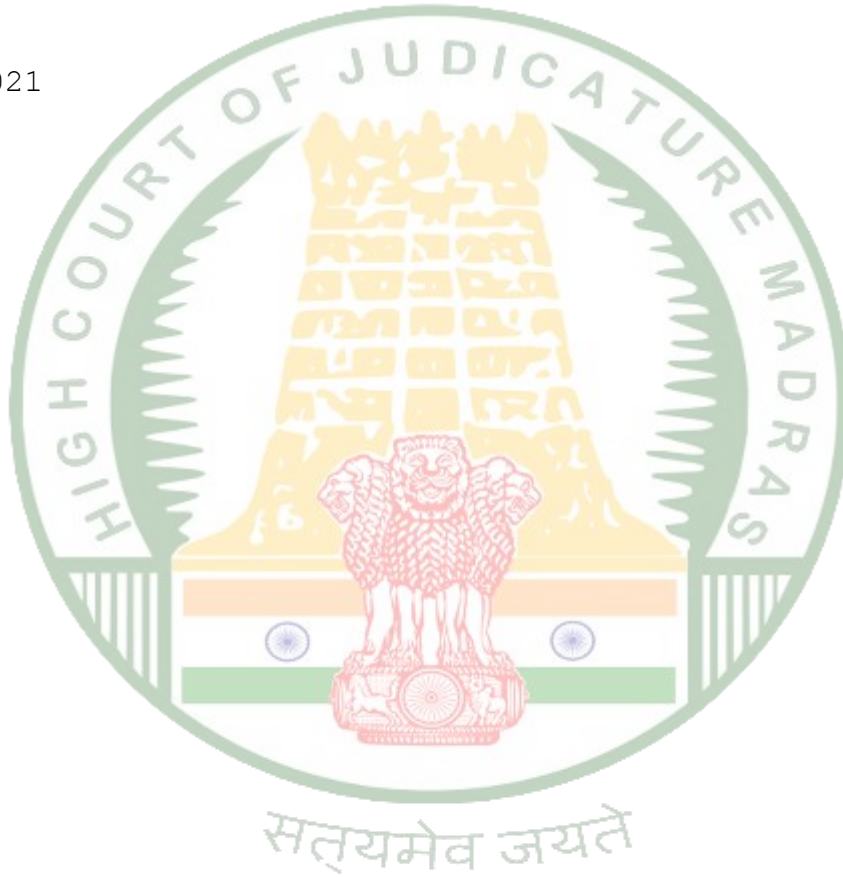
1. The Additional Director General of Prisons  
Egmore, Chennai - 8.
2. The Range Deputy Inspector General of Prisons  
Coimbatore Range, Coimbatore.

3. The Superintendent  
Central Prison, Salem.

+2 cc to Mr.V.B.Perumal raj Advocate sr6954  
+1 cc to the Government Pleader high Court Madras  
sr 7081

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