

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7210 of 2021

Lakshmanan

... Petitioner

-vs-

1. The State rep.by
District Adi Dravidar and Tribal Welfare Officer,
Cuddalore,
Cuddalore District.

2. The Special Tahsildar (ADW)
Vriddhachalam,
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent to revoke the order passed vide proceeding No.NA.KA.W10/79636/2014 dated 31.05.2015 for not permitting the petitioner to retire from service and also to provide all service benefits pursuant to his representation dated 09.03.2021.

For Petitioner : Mr.V.Govardhanan
for Mr.R.Thirumoorthy

For Respondents : Mr.P.Karthikeyan
Additional Government Pleader

ORDER

This writ petition has been filed, seeking a direction to the 1st respondent to revoke the order passed vide proceeding No.NA.KA.W10/79636/2014 dated 31.05.2015 for not permitting the petitioner to retire from service and also to provide all service benefits pursuant to his representation dated 09.03.2021.

2. The petitioner is the father of Accused No.1, who is said to have involved in a criminal case and the petitioner is also implicated in a case. Ultimately, in Criminal Original Petition No.18055 of 2020, this Court, by an order dated 18.01.2021, has held that there is no material to establish the involvement of

A1 in the offences attracting Sections 6 & 7 of the POCSO Act and ultimately, Criminal Original Petition filed by the petitioner herein, who was the first petitioner in CrI.O.P.No.18055 of 2020 was quashed. The petitioner was placed under suspension and he was not allowed to retire from service till the disciplinary proceedings are over, with an observation that the petitioner would be paid provisional pension, thereby he was proceeded with under F.R.56 (1) (c). Now, the criminal proceedings have been quashed and that there is a specific observation in the order that none of the petitioners in CrI.O.P.No.18055 of 2020 are involved in the incident and that the petitioner being the father cannot be put to any hardship, even presuming for the sake of argument that his son has committed a mistake. The petitioner has made a representation dated 09.03.2021 to the 1st respondent for revocation of the order dated 31.05.2015 and payment of all the monetary benefits. Since the said representation did not evoke any response, the petitioner is before this Court for a suitable direction.

3. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the first respondent and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the first respondent herein to consider the representation preferred by the petitioner dated 09.03.2021 if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order; as if there is no criminal case pending against the petitioner herein.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated

09.03.2021 and this order, to the first respondent forthwith;

v) The first respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

1. The District Adi Dravidar and
Tribal Welfare Officer,
Cuddalore,
Cuddalore District.

2. The Special Tahsildar (ADW)
Vriddhachalam,
Cuddalore District.

+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No.18143

LN(CO)
CB(13/07/2021)

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