



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.18534 OF 2020

AND

W.M.P.NO.22976 OF 2020

(Through Video Conferencing)

N.Dhandapani

... Petitioner

.Vs.

1. The Director,
Local Administrative Department,
Puducherry.

2. The Commissioner,
Oulgaret Municipality,
Puducherry.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent with No.F.1-6/Estt/OM/2020 dated 8.10.2020 and to quash the same and consequently directing the respondents to pay all the terminal benefits along with G.P.F., Group Insurance, Leave Salary, Annual Increment from 2002 onwards as per Court order, pension, gratuity etc. with penal interest of 24% per annum with retrospective effect from 28.02.2018 onwards.

For Petitioner : Mr.V.Ajayakumar

For Respondents : Mrs.Djearany
Government Advocate
(Pondicherry)

ORDER

This writ petition has filed to issue a writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 8.10.2020 and to quash the same and consequently directing the respondents to pay all the terminal benefits along with G.P.F., Group Insurance, Leave Salary,



Annual Increment from 2002 onwards as per Court order, pension, gratuity etc. with penal interest of 24% per annum with retrospective effect from 28.02.2018 onwards.

2. The petitioner was issued with a charge memo as early as 03.07.2003. A parallel criminal proceeding was initiated against the petitioner in C.C.No.751 of 2014 on the file of Judicial Magistrate No.III, Puducherry. The Judicial Magistrate No.III has now acquitted the petitioner in the aforesaid criminal case by its Judgment dated 18.03.2019.

3. During the interregnum, the petitioner was suspended from service on 26.03.2012. Thereafter, the petitioner was reinstated on 13.08.2004. The petitioner attained the age of superannuation on 28.02.2018. The petitioner therefore sent a representation to the 1st respondent dated 31.07.2019 with a request to pay provisional pension. Since the representation of the petitioner did not evoke any positive response from the 1st respondent, the petitioner approached this Court in W.P.No.30051 of 2019. The said writ petition was disposed by this Court on 23.10.2019 with a direction to consider and dispose the representation dated 31.07.2019 of the petitioner on merits and in accordance with law within a period of twelve weeks. It is stated that the petitioner is receiving only a provisional pension.

4. The 2nd respondent has informed that the order of this Court in W.P.No.30051 of 2019 dated 23.10.2019 was examined in the light of the representation dated 31.07.2019, provisional pension was being sanctioned pending disciplinary proceeding initiated against the petitioner.

5. The respondents have not complied with the deadline prescribed by this Court in W.P.No.24952 of 2005 dated 27.02.2017. The petitioner has also been acquitted in the criminal proceeding based on the same set of charges indicated. Therefore, nothing survives for the respondents to proceed further in the disciplinary proceeding. The disciplinary proceeding has taken almost two decades and it is yet to be completed. As per the decision of the Hon'ble Supreme Court in G.M.Tank vs. State of Gujarat and another, 2006 (5) SCC 446, the Court held that if the judicial pronouncement was made after a regular trial and on hot contest, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand. The Court further held that though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case will apply.



WEB COPY

the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed ”.

7. The issue is squarely covered by the above decision of the Honourable Supreme Court which has been followed by this Court in several cases. Therefore, the disciplinary proceedings cannot be continued to linger any longer against the petitioner. Therefore, this writ petition deserves to be allowed.

8. Accordingly, this writ petition stands allowed and the impugned order of the 2nd respondent dated 08.10.2018 is hereby quashed. The respondents are therefore directed to finalise the pension papers of the petitioner and to release the terminal benefits within a period of twelve weeks from the date of receipt of a copy of this order. The respondents shall also regularise the pension of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Director,
Local Administrative Department,
Puducherry.
2. The Commissioner,
Oulgaret Municipality,
Puducherry.

+1cc to Mr.V.Ajayakumar, Advocate, S.R.No.47698
+1cc to the Government Pleader, S.R.No.47650

W.P.NO.18534 OF 2020

MG (CO)
PBS/08/10/2021