



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No.8681 of 2020

WEB COPY

A.Krishnan

... Petitioner

Vs.

1. The Inspector General of Police (Registration)
Chennai- 600 028.

2. The District Registrar (Admn)
Office of the District Registrar,
Ramanathapuram.

3. The Accountant General (Pension)
Chennai - 600 018.

4. The District Treasury Officer,
District Treasury Office,
Ramanathapuram.

... Respondents

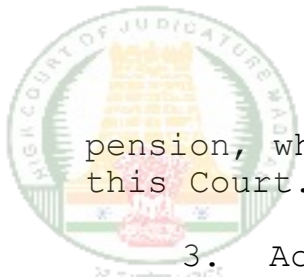
PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the respondents herein to pay the DCRG amount of Rs.8,17,130/- along with interest at 18 % per annum on the basis of order passed by the third respondent dated 04.06.2015 within the time stipulated by this Court.

For Petitioner	:	C. Jeganathan
For Respondents	:	Mr. A.K. Manikkam
		Standing Counsel for State
		for R1, R2 and R4
		Mr. P. Gunasekaran
		Standing Counsel for R3

O R D E R

The writ petitioner was working as Sub Registrar in the first-respondent Department at various places in Ramanathapuram District for 36 years. While so, at the fag end of his service, charges were framed against him on 19.02.2015 by the first respondent, on the ground of misplacement of certain documents by the petitioner.

2. According to the petitioner, the aforesaid charges are on false allegations made against the petitioner. Though the first-respondent has made false allegations against the petitioner, in response to the said charge memo, the writ petitioner has submitted his explanation to the first-respondent. Subsequently, pending the disciplinary enquiry, the petitioner was allowed to retire from service. However, initially he was not granted even the provisional



pension, which he could get only after filing a Writ Petition before this Court.

3. According to the petitioner, subsequently the third-respondent has passed an order stating that the petitioner is eligible for DCRG. As DCRG was not settled, the petitioner made an application to settle the death cum retirement gratuity amount but so far no order has been passed by the second-respondent, nor the amount has been settled to the petitioner. Hence the present Writ petition before this Court.

4. According to the learned counsel for the petitioner, the petitioner is entitled for the provisional DCRG amount as per the provisions of the Act. The denial of the said gratuity amount is illegal and arbitrary on the part of the respondents. Therefore, he also seeks for payment of interest for the delay in payment of the DCRG amount.

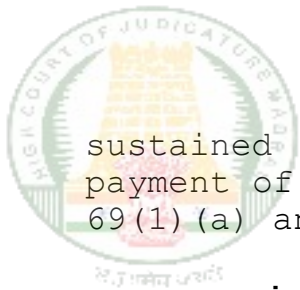
5. The learned Standing Counsel appearing for the first respondent would submit that the writ petitioner has relied upon the sanction order passed by the third-respondent. However, the third respondent has sanctioned the regular DCRG amount to the petitioner based on the proposal submitted by the employer prior to the date of superannuation of the petitioner. As subsequently charges have been framed against the petitioner. the petitioner is entitled only for the provisional DCRG amount.

6. The learned counsel appearing for the second respondent would submit that the payment of provisional DCRG would be considered on the petitioner making such application to the second respondent.

7. According to the learned Government Counsel appearing for the respondents would submit that the second respondent could not pass the order for the grant of provisional DCRG, as there was no sanction order passed by the third-respondent.

8. According to the learned counsel for the petitioner, the said reason stated in the impugned order is totally unjustifiable for the reason that when the petitioner is seeking for only the provisional DCRG amount, sanction of the Accountant General is not required. The second respondent is competent to settle the provisional DCRG amount as per the provisions of Rule 69 of the Tamil Nadu Pension Rules. Therefore, the proceedings of the second respondent are unsustainable and the second respondent ought to have considered the petitioner's application to grant provisional DCRG as per the Rules.

9. In view of the submissions made on either side, this Court is of the view that the reasons stated in the proceedings cannot be



sustained and the second respondent shall consider the issue of payment of provisional DCRG in proper perspective by following Rule 69(1) (a) and (b) of the Tamil Nadu Pension Rules.

69. Provisional pension where departmental or judicial proceedings [or enquiry by the Director of Vigilance and Anti-corruption] may be pending.

- (1) (a) In respect of a Government servant referred to in sub-rule (4) of 9, the Head of office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant.

(b) No gratuity shall be paid to the Government servant until the conclusion the departmental or judicial proceedings [or enquiry by the Director of Vigilance and Anti-corruption] and issue of final orders thereon.

[Provided that no such gratuity, shall be withheld in respect of a Government servant, who has been permitted to retire without prejudice to the departmental or judicial proceedings pending against him, where such departmental or judicial proceedings are only for administrative lapses not involving any pecuniary loss to the Government.]

10. According to the petitioner, though the enquiry was concluded, yet no final order has been passed by the first respondent and therefore seeks appropriate direction to pass the final order within a prescribed time limit fixed by this Court.

11. Therefore, in view of the aforesaid Rule, it is very clear that the second respondent has to pass the appropriate orders for payment of the provisional DCRG amount to the petitioner. In the light of the above clear position, this Court is inclined to pass the order as follows:

i). Proceedings dated 10.02.2020 of the second-respondent are set aside and the second respondent is directed to pass fresh orders in the light of Rule 69 of the Tamil Nadu Pension Rules within a period of four weeks from the date of receipt of a copy of this order.

ii) The first respondent is directed to pass final orders in the disciplinary proceedings initiated against the petitioner on the basis of the charge memo No.7444/A1/2015 dated 19.02.2015 and pass final orders as expeditiously as possible within a period of three months from the date of receipt of a copy of this order, if there is otherwise no legal impediment.



12. With the above directions, the Writ Petition is disposed of.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to M/s.SPL.GP (SR-32237[F] dated 22/10/2021)

W.P. (MD) No.8681 of 2020
21.10.2021

RD/JGB (18.11.2021) 4P 6C