



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.4403 of 2022
and
W.M.P.No.4535 of 2022

P.Subramani

... Petitioner

vs.

- 1.The Director of Public Health
and Preventive Medicine,
Teynampet,
Chennai - 600 006.
- 2.The Deputy Director of Health Services,
Dharmapuri.
- 3.The Deputy Director of Health Services,
Krishnagiri.
- 4.The Accountant General of Tamil Nadu,
No.361, Anna Salai,
Teynampet,
Chennai - 600018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to regularize the period of Suspension underwent by the petitioner from 20.03.1998 to 21.07.2000 as duty period for all purpose and to accordingly sanction and disburse Pension and other pensionary benefits including arrears of pension, provident fund, gratuity, commutation of pension, encashment of earned leave within a stipulated period of time.

For Petitioner : Mr.R.Prem Narayan

For R1 to R3 : Mr.A.M.Ayyadurai
Government Advocate



O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to regularize the period of Suspension underwent by the petitioner from 20.03.1998 to 21.07.2000 as duty period for all purpose and to accordingly sanction and disburse Pension and other pensionary benefits including arrears of pension, provident fund, gratuity, commutation of pension, encashment of earned leave within a stipulated period of time.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3.

3. The case of the writ petitioner is that he was placed under suspension with effect from 13.09.2002, on account of his arrest in Crime No.277 of 2002 for the offences under Section 15 (2)(b) and (3) of the Indian Medical Council Act and Section 354 of IPC, while he was working as Pharmacist. The Judicial Magistrate, Pochampally convicted the petitioner in the said case in C.C No.187 of 2002 vide judgment dated 23.01.2004. Against the said conviction, the petitioner preferred an appeal in C.A No.5 of 2004 before the I Additional Sessions Court, Krishnagiri, and by judgment dated 19.09.2006, the judgment passed by the trial Court was set aside and the case was remanded back to the trial Court for fresh disposal. Challenging the said judgment, the petitioner has preferred CrI.R.C No.418 of 2009 before this Court and the same was dismissed on 17.02.2010. Again, the petitioner was convicted by the trial Court and challenging the aforesaid conviction, the petitioner preferred an appeal in C.A No.36 of 2010 and the said criminal appeal was also dismissed confirming the judgment made in C.C No.187 of 2002. Challenging the said judgment, the petitioner has filed CrI.R.C No.1340 of 2012 before this Court and by an order dated 27.03.2018, this Court allowed the said criminal revision by setting aside the judgment of the trial Court and the first Appellate Court and acquitted the petitioner from the aforesaid criminal charges.

4. According to the writ petitioner, the aforesaid order of dismissal was based on the ground of conviction in the criminal case and no departmental proceedings was initiated against the petitioner. Therefore, challenging the aforesaid order of dismissal, the petitioner has filed W.P No.24410 of 2010 before this Court and this Court, by an order dated 01.10.2019 directed the respondents to consider and pass orders on the representation of the petitioner dated 31.10.2018. After the orders passed in the aforesaid petition, the petitioner submitted a representation to the respondents, requesting to



cancel the order of dismissal in the light of the subsequent judgment passed in criminal revision case. Thereafter, the first respondent passed an order cancelling the order of dismissal from service dated 06.10.2004 and treating the period of suspension from 13.09.2002 to 14.10.2004 as duty period for all purpose under F.R 54 with full pay and allowance and also permitting him to retire from service with effect from 31.05.2016, i.e the date on which he attained the age of superannuation. Though the petitioner was allowed to retire from service with effect from 31.05.2016, he is yet to receive the benefits and other retirement benefits. The respondents informed the petitioner that the period of suspension underwent by the petitioner from 20.03.1998 to 21.07.2000, on account of his arrest in Crime No.194 of 1998 was not regularised. Therefore, again the petitioner sent a representation on 23.11.2020 to the second respondent to regularize the said period of suspension and settle the retirement benefits. The petitioner was allowed to retire from service with effect from 31.05.2016 vide order dated 02.07.2020. But, till date, he has not been sanctioned any pension and other retirement benefits by the respondent.

5. The primordial contention of the writ petitioner is that the respondent has not disbursed the terminal benefits to the petitioner for a long period. Therefore, he made a representation to the third respondent to disburse the pension and other retirement benefits without any further delay in the aforesaid backdrop.

6. The learned counsel for the petitioner has also made a request before this Court to direct the third respondent to consider the petitioner's representation dated 21.12.2021.

7. In view of the aforesaid prayer sought for by the petitioner, the third respondent is directed to consider the petitioner's representation dated 21.12.2021 and pass appropriate orders on its own merits and in accordance with law, as expeditiously as possible, more preferably, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



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To

1.The Director,
Public Health and Preventive Medicine,
Teynampet,
Chennai - 600 006.

2.The Deputy Director of,
Health Services,
Dharmapuri.

3.The Deputy Director of,
Health Services,
Krishnagiri.

4.The Accountant General,
Government of Tamil Nadu,
No.361, Anna Salai,
Teynampet, Chennai - 600018.

+1cc to Mr.R.Prem Narayan, Advocate, S.R.No.13254
+1cc to the Government Pleader, S.R.No.14124

W.P.No.4403 of 2022
and
W.M.P No.4535 of 2022

SS (CO)
SB(22/03/2022)