



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9104 of 2011
and M.P.Nos.2 & 3 of 2011

K.Ramachandran
Medical Record Officer,
Government Headquarters Hospital,
Cuddalore.

... Petitioner

Vs.

1.Government of Tamil Nadu

Rep. by Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600009.

2.The Director of Medical and Rural Health Services,
Chennai - 600006.

3.The Accountant General (A&E),
Tamil Nadu, Chennai - 600018.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to G.O.(D).No.542, Health and Family Welfare (K1) Department, dated 31.05.2010, quash the same and issue consequential directions to the respondents to disburse admissible pension and DCRG in full to the petitioner consequent on the order of compulsory retirement made in G.O.(D).No.1395, Health and Family Welfare (K-1) Department, dated 19.11.2007.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.C.Selvaraj [R1 & R2]
Additional Government Pleader
M/s.Hema Muralikrishnan [R3]

ORDER

On a set of proven charges given by the Tribunal for Disciplinary Proceedings, Thanjavur, the respondents had passed the orders imposing punishment of compulsory retirement from



service through G.O.(D).No.1395, Health and Family Welfare (K-1) Department, dated 19.11.2007. This disciplinary proceeding was initiated when the petitioner was due to retire on 31.01.2004 on which date, he was not permitted to retire. Subsequently, through G.O.(D).No.542, Health and Family Welfare (K1) Department, dated 31.05.2010, the Government had sanctioned 67% of admissible pension and 67% of admissible Death-cum-Retirement Gratuity to the petitioner. Aggrieved against the reduction of pension and DCRG, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that the Government has no authority to interfere with the pension and DCRG benefits after having permitted him to retire and after imposing the penalty of compulsory retirement. According to the learned counsel, since the petitioner was compulsorily retired on 19.11.2007 itself, he is entitled to receive the full pension as well as the DCRG benefits.

3. The learned Additional Government Pleader appearing for the first and second respondents placed reliance on Rule 39 of the Tamil Nadu Pension Rules and submitted that the Government, in consultation with the Tamil Nadu Public Service Commission, had reduced the pension and DCRG benefits, which is permissible under the Rule and therefore, there is no infirmity in such action.

4. Rule 39 of the Tamil Nadu Pension Rules, 1978, empowers the Government to impose a penalty affecting the pension or gratuity or both, at a rate not less than two thirds and not more than full compensation pension or gratuity or both admissible to him on the date of his compulsory retirement.

5. What Rule 39 provides is, the powers of the Government to interfere with the pension or gratuity at the time when the punishment of compulsory retirement is imposed and not thereafter.

6. It is a settled proposition of law that once a Government employee is deemed to have retired from service, the Government cannot thereafter initiate any proceedings interfering with the pensionary benefits of the petitioner. If at all the Government was of the view that the charges are serious in nature, such reduction of the pension or gratuity is ought to have been done on the date on which the original punishment was imposed and not thereafter. This action would tantamount to imposition of double punishment on the petitioner also. This apart, it is seen that the impugned proceedings dated 31.05.2010 has been unilaterally taken, without giving an opportunity to the petitioner herein and on this ground of the violation of principles of natural justice also, the impugned



order cannot be sustained.

7. For all the foregoing reasons, the impugned order dated 31.05.2010, is quashed. Consequently, there shall be a direction to the first respondent herein, to pass an appropriate orders for disbursement of the admissible pension and DCRG in full including arrears to the petitioner herein, within a period of six (6) weeks from the date of receipt of a copy of this order.

In the result, this Writ Petition stands allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Government of Tamil Nadu
Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600009.
- 2.The Director of Medical and Rural Health Services,
Chennai - 600006.
- 3.The Accountant General (A&E),
Tamil Nadu, Chennai - 600018.

+1cc to the Government Pleader, S.R.No.14626

W.P.No.9104 of 2011

MG(CO)
SB(16/03/2022)