



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.9513 of 2014

L. Jayaraman

... Petitioner

Vs

- 1 The Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St.George, Chennai 9.
- 2 The Director of Municipal Administration
Chepauk, Chennai - 5
- 3 The Director of Town Panchayat
Kuralagam, Chennai-108
- 4 The Commissioner
Corporation of Coimbatore
Coimbatore

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the respondents in connection with the impugned orders passed by the 1st respondent in letter No.201/TPI/2012/6 dated 28.09.2013 and passed by the 3rd respondent in Na.Ka.No.13361/2009/E2 dated 11.11.2013 and quash the same and direct the respondents to issue incentive bonus of Rs.2,000/- and commendation certificate to the petitioner for having rendered 36 years of meritorious service within a reasonable time.

For Petitioner ... Mr.K.Venkataramani,
Senior Counsel,
for Mr.M.Muthappan

For Respondents ... Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
for respondents 1 to 3

Mr.K.Magesh,
for the fourth respondent



O R D E R

The case of the petitioner is that he entered Government service as Junior Assistant in the Town Panchayat Service in 1961. He reached the position as Selection Grade Executive Officer in 1964 and was promoted as Assistant in 1965. In 1972, he was further promoted as Executive Officer Grade-I and in 1996, he was appointed as Special Grade Executive Officer.

2. On 04.01.1996, the Government have introduced incentive increment to be granted to the Government servants who have rendered 25 years of meritorious service, vide G.O.Ms.No.13 Finance and Pay Cell Department. In 1998, the petitioner was issued with a charge-memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules for certain acts of misconduct. During May, 1998, the petitioner was due to retire, on attaining the age of superannuation but he was not allowed to retire as he was facing major penalty proceedings and was placed under suspension.

3. The petitioner subsequently was exonerated of the charges in 2003 and was allowed to retire from service with effect from the normal date of his superannuation by the orders of Government on 08.09.2005. After his retirement, the petitioner appeared to have submitted a representation on 03.12.2007, requesting for award of incentive increment of Rs.1000/- for rendering meritorious service of 25 years in terms of the then relevant instructions issued by the Government conferring benefits of incentive increment on meritorious servants. The petitioner's representation was initially not considered but was advised to approach the proper authority.

4. In the meanwhile, a subsequent Government order in G.O.Ms.No.390, Finance & Pay Cell Department, dated 07.11.2012 was issued by the Government modifying its earlier order to the effect that the employees who have rendered 25 years of unblemished service alone will be entitled to be conferred with the incentive increment. Finally, an order was issued on 28.09.2013 rejecting the petitioner's claim, stating that the petitioner had already superannuated from service before the issuance of the revised Government order dated 07.11.2012. That was conveyed by the authorities vide order dated 11.11.2013. Challenging the same, the petitioner is before this Court.

5. After notice, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader, has entered appearance and a detailed counter-affidavit has been filed. In the counter-affidavit, it is stated that the charges which were originally framed against the petitioner were relating to manipulation, cheating, misappropriation and causing loss to the Government. As claimed



by the petitioner, he was not exonerated of the charges but his suspension period of five years was treated as punishment by the third respondent vide proceedings dated 14.07.2003. Based on the final order of the third respondent, the first respondent vide G.O.Ms.No.62, Rural Development Department, dated 08.09.2005, allowed the petitioner to retire from Government service with effect from 31.05.1998, the original date of his superannuation.

6. The learned Additional Government Pleader would further submit that original G.O.Ms.No.13 dated 04.01.1996 was superseded by the subsequent Government order in G.O.Ms.No.390 dated 07.11.2012 and the award of incentive increment in terms of the subsequent Government order is a discretion vested in the competent authority for its grant and conferment. The incentive increment is given as a token of recognition and encouragement to the Government servants to render further unblemished service till retirement. But, certainly, such incentive cannot be given to an employee who had faced very serious charges and was also punished, as narrated above.

7. At this, the learned Senior Counsel for the petitioner submitted that since there was no penalty imposed on the conclusion of the disciplinary action, the petitioner is entitled to be considered for grant of the special incentive.

8. This Court is unable to countenance the submission of the learned senior counsel. The fact of the matter is that the petitioner was eventually imposed with penalty on conclusion of the disciplinary proceedings initiated against him for major penalty proceedings, in pursuance of the charge memo issued under Section 17(b) of the Discipline Rules. Once the petitioner was found guilty of the charges and punishment was awarded, the question of his claiming any incentive increment, which is given only to the Government servants who have rendered unblemished service for 25 years, does not arise.

9. The petitioner having come under a cloud and was also inflicted with a penalty, cannot claim any benefit, either under the earlier Government order issued in 1996 or the present Government order issued in 2012. It would be a mockery and travesty if the incentive increment meant for meritorious and unblemished Government servants is to be extended to the petitioner who faced charges in the nature of cheating, manipulation, misappropriation etc. and suffered penalty on that account.

10. In fact, one other ground was also raised in the counter-affidavit that the petitioner had superannuated even before the issuance of the G.O. dated 07.11.2012 (G.O.Ms.No.390). This Court is in agreement with the submission



made on behalf of the respondents that on both the grounds, the petitioner cannot be held to be entitled for the grant of benefit of the incentive increment as contemplated in the aforementioned Government orders.

WEB COPY

11. For the aforesaid reasons, this Court finds that the writ petition is totally devoid of merits and the same is liable to be dismissed. The writ petition is, accordingly, dismissed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

tar

To

- 1 The Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St.George,
Chennai 9.
- 2 The Director of Municipal Administration
Chepauk, Chennai - 5
- 3 The Director of Town Panchayat
Kuralagam, Chennai-108
- 4 The Commissioner
Corporation of Coimbatore
Coimbatore.

+1cc to the Government Pleader, S.R.No.9202

W.P. No.9513 of 2014

NMP (CO)
CT 11/03/2022