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W.P. No.23758 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.23758 of 2021

A. Asokan

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai – 600 009.
2. Principal Secretary/Commissioner of
Revenue Administration,
Chepauk,
Chennai – 600 005.
3. District Collector,
Nagapattinam District,
Nagapattinam.
4. District Collector,
Thiruvarur District,
Thiruvarur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of mandamus, directing the respondents to settle the gratuity amount to the petitioner along with interest accrued therein, within a time period as may be fixed by this Court.



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For Petitioner : Mr. P. Ganesan
For Respondents : Mr. T. Arun Kumar
Additional Government Pleader

ORDER

This writ petition is filed for the issuance of a writ of mandamus, directing the respondents to settle the gratuity amount to the petitioner along with interest accrued therein, within a time period as may be fixed by this Court.

2. According to the writ petitioner, the allegation against him is that while he was working as Tahsildar, a total amount of Rs. 09,02,300/- was disbursed to various ineligible persons as relief fund in the year 2010 and thereby caused loss to the Government. Therefore, the Inspector of Vigilance and Anti Corruption Department gave a complaint and an F.I.R was registered on 12.10.2015. However, at the verge of his retirement, he was placed under suspension vide G.O.(2D) No.284, Revenue and Disaster Management Department, and not allowed to retire from service vide G.O. (2D) No, 287, Revenue and Disaster Management Department, dated 28.09.2017. Thereafter, the petitioner filed Crl.OP. No. 27686 of 2017, before this Court praying to direct the Vigilance & Anti corruption Department to take action on the F.I.R



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No. 05 of 2015 dated 12.10.2015 and file final report. This Court, by order dated 15.12.2017, directed to file the final report within 60 days. Thereafter, they filed final report and registered a case in Spl.C.C.No. 01 of 2018 on the file of Chief Judicial Magistrate, Nagapattinam, which is pending.

3. According to the petitioner, he had also filed writ petition in W.P.No. 28541 of 2017, challenging the aforesaid Government Orders. This Court, by order dated 08.11.2017, dismissed the said writ petition, permitting the petitioner to make a representation to the respondents seeking retirement benefits. Pursuant to the said order of this Court, the respondents have disbursed the other benefits to the petitioner except the gratuity amount. Therefore, he has made a representation to the respondents on 30.09.2021, to settle all the terminal benefits including the gratuity amount. So far no orders have been passed. Hence, the petitioner has filed the instant writ petition.

4. The case of the petitioner is that, as per the letter of the Commissioner of Revenue Administration dated 08.05.1997, the said loss was ordered to be recovered proportionately from the staff/employees involved in the disbursement of the said relief fund and the petitioner has to pay only 5 % of the loss caused to the Government, to the tune of Rs. 45,115/- . The petitioner



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states that it is unfair to withhold his gratuity amount which would come about Rs. 12 Lakhs.

5. The respondents have filed a counter, wherein it is stated that pursuant to the orders passed by this Court in W.P.No. 28541 of 2017, the respondents have complied with the orders of this Court and settled the amount to the petitioner. Further, it is stated that due to payment of crop damage relief to the ineligible farms, Government has suffered loss, for which, the petitioner is responsible. It is submitted that admittedly there is loss of government revenue by way of payment of crop damage relief to the ineligible farmers and a criminal case is pending against the petitioner in Spl.C.C.No. 1/2018 before the Chief Judicial Magistrate Court, Nagapattinam. In view of aforesaid reasons, the petitioner cannot seek for grant of gratuity amount.

6. Further, the learned Government Pleader, relied upon Sub Section 6 of Section 4 of the Payment of Gratuity Act, 1972, wherein it states as follows:

"(6) Notwithstanding anything contained in sub-section (1),-

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;



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(b) the gratuity payable to an employee may be wholly or partially forfeited-

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

7. Therefore, considering the said fact that the criminal case is pending, before the Chief Judicial Magistrate Court, Nagapattinam in Spl.C.C.No.1/2018 for causing loss to the Government's relief fund and in view of the aforesaid provision, Sub Section 6 of Section 4 of the Payment of Gratuity Act, 1972, this Court is of the view that, at this stage, the petitioner is not entitled for the gratuity amount as claimed in the writ petition. However if the petitioner is discharged from the said criminal case, it is open to the petitioner to seek appropriate remedy before the authority concerned.

8. With the above directions, the writ petition stands disposed of. No costs.

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Index : Yes / No
Internet : Yes/ No
mrn



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2. The Principal Secretary/Commissioner of
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