IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 26452 of 2017
and
W.M.P. No. 28153 of 2017

G.Dhakshnamoorthy ...Petitioner

-vs-

1. The Principal Secretary to Government,
   Commercial Taxes and Registration Department,
   Government of Tamil Nadu,
   Fort St. George,
   Chennai – 600 009.

2. The Inspector General of Registration,
   Office of the Inspector General of Registration,
   No. 100, Santhome High Road,
   Chennai – 600 028.

3. The Sub-Registrar,
   Sub-Registrar's Office, Mylapore,
   No. 100, Santhome High Road,
   Chennai – 600 028. ...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to G.O. (D) No. 209, Commercial Taxes and Registration (H) Department dated 23.05.2012 on the file of the First Respondent against the Petitioner and quash the same and further promote to the post of Assistant Inspector General of Registration.

For Petitioner : Mr. D.Veerasekaran
For Respondents: Mrs. C.Sangamithirai,
Special Government Pleader

O R D E R

Heard Mr. D.Veerasekaran, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been allowed to retire from service as District Registrar on 30.11.2009 when he attained the age of superannuation without prejudice to the outcome of the disciplinary proceedings that were then pending against him for causing loss to the Government in collecting stamp duty and registration fees to the extent of Rs. 4,69,691/- in respect of 40 documents. After dropping the audit remarks in respect of 5 documents, the loss had been confirmed in respect of the remaining 35 documents. The First Respondent by Proceedings No. 13577/H/2009-6 dated 25.08.2010 expressed to the Petitioner that it was intended to recover Rs. 250/- per month for one year from his pension towards the said loss caused by him and he was required to state his objections, if any, within a period of 15 days from the date of its receipt. In response thereto, the Petitioner by letter dated 28.03.2012 consented to the said punishment that was proposed to be imposed upon him. In furtherance thereto, the First Respondent by G.O. (D) No. 209, Commercial Taxes and Registration (H) Department dated 23.05.2012 inflicted the said punishment of recovery of Rs. 250/- from his monthly pension for one year, which is said to have been received by him on 05.07.2012. After a lapse of five years, the said order has been challenged in this Writ Petition.

3. Learned Counsel for the Petitioner vociferously pleaded that the losses said to have been caused by the Petitioner have been recovered from the concerned persons under the relevant statutory provisions and in such circumstances, the impugned order of recovery to recompense such loss cannot be sustained. Though the said contention appears to be attractive, it is not possible to accept the same. Rule 6(i) of the Tamil Nadu Pension Rules, 1978 (hereinafter referred to as 'the Pension Rules' for short) mandates that full pension admissible shall not be sanctioned to a Government Servant unless the service rendered by him has been approved by the pension sanctioning authority as satisfactory. In terms of Rule 9(i)(a) of the Pension Rules, the Government has reserved the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period if, in any departmental or judicial proceeding, the Pensioner is found guilty of grave misconduct or negligence during the period of his service and such withholding or withdrawing the pension may be effected irrespective of the fact whether or not any pecuniary loss on account of such gross misconduct or negligence had been caused to the Government. The proviso to the said Rule further provides that the Tamil Nadu Public Service Commission need not be consulted in cases where the Pensioner agrees for withholding or withdrawal of his pension as in this case.

4. Viewed from that perspective, there does not appear to be any infirmity in the impugned order requiring interference in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution. Moreover, the vague reasons sought to be explained by the Petitioner for the inordinate delay by approaching the Court does not merit consideration and the Writ Petition cannot be entertained for the said reason also.

In the result, the Writ Petition, which lacks any merit, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vjt
To
1. The Principal Secretary to Government,
   Commercial Taxes and Registration Department,
   Government of Tamil Nadu,
   Fort St. George,
   Chennai - 600 009.

2. The Inspector General of Registration,
   Office of the Inspector General of Registration,
   No. 100, Santhome High Road,
   Chennai - 600 028.

3. The Sub-Registrar,
   Sub-Registrar's Office, Mylapore,
   No. 100, Santhome High Road,
   Chennai - 600 028.

+1 CC to Mr.D. Veerasekaran, advocate sr 11199
+1 CC to The Government Pleader sr 11542.

W.P. No. 26452 of 2017

GP(CO)
SP(08/04/2022)