



W.P.(MD)No.6988 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6988 of 2020
and
W.M.P.(MD)No.12185 of 2020

G.Krishnan

Vs.

... Petitioner

1. The Director
Survey and Settlement Department,
Survey House,
Chepauk,
Chennai – 600 005.
 2. The Additional Director,
Department of Survey and Land Records
Survey House,
Chepauk,
Chennai – 600 005.
 3. The Regional Director of Survey and Land Records,
Madurai – 625 020.
 4. The Assistant Director of Survey and Land Records,
District Land Survey Office, Collectorate Campus,
Vannarpettai,
Tirunelveli District.
- ... Respondents



W.P.(MD)No.6988 of 2020

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 4th respondent bearing No.A4/2641/09(1) dated 30.05.2011 and the consequential order bearing No.A4/2641/09 (2) dated 30.05.2011 and to quash the same and for consequential direction directing the respondents to permit the petitioner to retire from service and to grant all pensionary benefits due to petitioner including Gratuity, Provident Fund, Earned Leave Allowance, along with Continuity of service and to pay Full Pension including arrears of pay and pension along with interest till the date of settlement to the petitioner.

For Petitioner : Mr. D.Srinivasaragavan

For Respondents : Mr. G.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition has been filed to quash the proceedings of the fourth respondent bearing No.A4/2641/09(1), dated 30.05.2011 and the consequential order bearing No.A4/2641/09 (2), dated 30.05.2011 and for consequential direction to direct the respondents to permit the petitioner to retire from service and to grant all pensionary benefits due to petitioner



W.P.(MD)No.6988 of 2020

including Gratuity, Provident Fund, Earned Leave Allowance, along with Continuity of service and to pay Full Pension including arrears of pay and pension along with interest till the date of settlement to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner worked as Firka Surveyor and he attained the age of superannuation on 31.05.2011. However, during the pendency of the vigilance case, the petitioner's service was retained under Section 56(1)(c) of the Act and he was placed under suspension for retaining the service. However, subsequently, the criminal case registered by the Law Enforcing Agency in Spl.C.C.No.1 of 1998 on the file of the Chief Judicial Magistrate Court, Tirunelveli, ended in acquittal on 18.11.2010 and against which, the State preferred an appeal in C.A.No.37 of 2011 before this Court and this Court confirmed the order of acquittal passed by the trial Court and prior to that, disciplinary proceeding were initiated against the petitioner and the same ended in punishment of stoppage of increment for 3 years without cumulative effect. Even on conclusion of the departmental proceedings, till



W.P.(MD)No.6988 of 2020

WEB COPY

date the respondent was not settled with the terminal benefits and hence, this Court may issue a direction to the respondents to settle the terminal benefits within a reasonable time limit.

3. The learned counsel for the respondents submitted that the petitioner submitted a representation on 24.12.2018 requesting to permit him to retire from service and to grant all the retirement benefits. The first respondent through his letter, dated 09.07.2019, requested the Government to issue necessary clarifications regarding granting permission to the petitioner to retire from service on 31.05.2011. The Government in letter No.10193/SS4(2)/2019-9 Revenue and Disaster Management Department, dated 10.11.2020, has stated that the petitioner was trapped and arrested for the allegation of demand and acceptance of bribe for measuring and demarcating the boundaries of a particular land. But the above said corruption part of allegations have not been covered in the charges framed in the departmental action, for which, the above delinquent officer was imposed with punishment of increment cut. After the departmental action is initiated against the petitioner consequent on his acquittal in the criminal



W.P.(MD)No.6988 of 2020

case for the same set of allegation and if the corruption charge is proved at a later stage, it may warrant imposition of major punishment. Therefore, the Government has requested the first respondent to initiate departmental action at once against the petitioner for the said corruption part of allegation which have not been covered in the charges framed in the earlier departmental disciplinary case. Accordingly, the second respondent through letter, dated 30.11.2020, directed the fourth respondent to initiate fresh departmental action against the petitioner for demand and acceptance of bribe and to take further action. Hence, prayed for dismissal.

4. Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader appearing for the respondents on either side.

5. The facts in the present case are not in dispute. The petitioner while he was working as a Firka Surveyor at Muneerpallam Village, one Paramasivam submitting a petition on 06.01.19977 requesting to measure the property. It is alleged that the petitioner demanded a sum of Rs.500/- for



W.P.(MD)No.6988 of 2020

WEB COPY

measuring the property, for which, the Paramasivam preferred a complaint before the Law Enforcing Agency. The Law Enforcing Agency registered a case in Crime No.1 of 1997 under Section 7 of the Prohibition of Corruption Act and after investigation, they filed a charge sheet in Spl.C.C.No.1 of 1998, on the file of the Chief Judicial Magistrate Court, Tirunelveli and the said case has ended in acquittal on 8.11.2010. Against which, the State preferred a criminal appeal before this Court in C.A(MD)No.37 of 2011. When the appeal is pending, the petitioner due to retire on 31.05.2011 on superannuation, the fourth respondent vide proceedings, dated 30.05.2011 placed the petitioner under suspension from service on 30.05.2011 and retained the service of the petitioner under Rule 56(1)(c) of the Fundamental Rules on 31.05.2011. Challenging the same, the present writ petition is filed.

6. The learned counsel appearing for the petitioner would submit that apart from the registration of criminal case by the Law Enforcing Agency, departmental proceedings were initiated under Rule 17-B against the petitioner and the same ended in punishment of stoppage of increment



W.P.(MD)No.6988 of 2020

WEB COPY

for three years with cumulative effect by order dated 19.08.2006 and thereafter, the criminal case launched by the prosecution also ended in acquittal on 18.11.2010 and the appeal was dismissed on 29.10.2018 and even then, the terminal benefits of the petitioner was not disbursed and continued the petitioner's disciplinary proceedings and as such the impugned order which is not sustainable one and in the counter affidavit, they state that they are intended to initiate disciplinary proceedings apart from the earlier disciplinary proceedings for the same set of facts, which is not sustainable one. Accordingly, he prayed for appropriate orders.

7. Considering the facts and circumstances of the case, for the very same lapse during the pendency of the criminal proceedings, the department taken disciplinary proceedings under Rule 17 B of the Tamil Nadu Civil Services (Disciplinary & Appeal) Rules and the same was ended in punishment of stoppage of increment for three years with cumulative effect and apart from that, the criminal case launched by the Law Enforcing Agency also ended in acquittal and the same was confirmed by this Court and even then keeping this impugned order survived, is not a sustainable



W.P.(MD)No.6988 of 2020

WEB COPY

one and hence, the impugned order is liable to be set aside and the respondents are directed to pay the terminal benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed with a direction to the respondents to pay the terminal benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2022

Index : Yes / No

Speaking Order : Yes / No

RM



W.P.(MD)No.6988 of 2020

To
WEB COPY

1. The Director
Survey and Settlement Department,
Survey House,
Chepauk,
Chennai – 600 005.
2. The Additional Director,
Department of Survey and Land Records
Survey House,
Chepauk,
Chennai – 600 005.
3. The Regional Director of Survey and Land Records,
Madurai – 625 020.
4. The Assistant Director of Survey and Land Records,
District Land Survey Office, Collectorate Campus,
Vannarpettai,
Tirunelveli District.



WEB COPY



W.P.(MD)No.6988 of 2020

M.DHANDAPANI,J.

RM

W.P.(MD)No.6988 of 2020

12.12.2022