



W.P.(MD)No.8743 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8743 of 2020

I.John (Retd)

... Petitioner

Vs.

1.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandanam,
Chennai.

2. The Assistant Executive Engineer,
Agricultural Engineering Department,
Kodaikanal,
Dindigul District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus relating to the impugned order passed by the second respondent in his letter No.A. 500/2019 dated 20.07.2020 and quash the same as illegal and consequentially to direct the respondent Nos.1 and 2 to pay the payment of gratuity to the petitioner within the time frame stipulated by this Court.



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For Petitioner : Mr.V.P.Rajan
For Respondents : Mrs.K.Christy Deborah
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent in his letter No.A.500/2019 dated 20.07.2020 and for consequential direction to the respondent Nos.1 and 2 to pay the payment of gratuity to the petitioner within the time frame stipulated by this Court.

2. The case of the petitioner is that the petitioner was appointed as Assistant Soil Conservation Officer on 05.11.1984 and the said post was upgraded to Junior Engineer in the year 2007 considering the past 20 years of service of the petitioner. The Government notified a scheme in Kodaikanal for constructing check dam and Gabion check dam under Special Area Development Project in the year 2016-17. The petitioner was entrusted work to construct the said dam. Accordingly, the petitioner

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constructed the check dam and Gabion check dam as per the scheme and specifications. During September 2018 and March 2019 the Superintendent Engineers from Chennai and Coimbatore carried out inspections on the check dam and Gabion check dam constructed under SADP scheme 2016-17 and found some negligence on the part of the petitioner in preparing estimate. The petitioner has submitted his explanation and rectified the mistakes as it was inadvertently committed during September 2019.

3. While so, the second respondent issued a charge memo dated 05.12.2019 under Section 17(b) of the Tamil Nadu Civil Service Discipline and Appeal Rule and the same was served to the petitioner only on 12.12.2019 for the abovesaid lapses and the charges framed against the petitioner are not serious. In the meanwhile, the petitioner attained the age of superannuation and the petitioner was allowed to retire from service on 31.12.2019 without prejudice to the disciplinary proceedings initiated against the petitioner by invoking Rule 9 of the Tamil Nadu Pension Rules, 1978.



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4. Thereafter, the petitioner preferred representation on 19.02.2020 to the respondent to settle the retirement benefits namely provident fund, gratuity and leave salary etc. The first respondent sent a communication to the second respondent stating that the retirement benefits may be settled except the payment of gratuity to the petitioner. Based on the communication, the second respondent passed the impugned order dated 20.07.2020 rejecting the claim of payment of gratuity by stating that the petitioner is only entitled to the other retirement benefits. Challenging the same, the present Writ Petition is filed.

5. The learned counsel appearing for the petitioner would submit that a direction may be issued to the first respondent to settle the eligible gratuity amount as fixed by this Court.

6. This Court perused the impugned order. On a perusal, the impugned order would reveal that the petitioner has made a representation through the Right to Information Act in which the Assistant Engineer has sent a letter to the petitioner. However, the



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grievance of the petitioner is that though the petitioner was allowed to retire from service in terms of the Rule 9 of the Tamil Nadu Pension Rules, 1978, the gratuity amount was not paid to him.

7. In view of the above, this Court is inclined to issue a direction to the first respondent to settle the eligible benefit to the petitioner and pass appropriate orders. If the petitioner is so aggrieved in the order passed by the first respondent, liberty is granted to work out his remedy in the manner known to law.

8. With the above liberty, this Writ Petition is disposed of. No costs.

19.12.2022

Index : Yes/No
Internet : Yes/No
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M.DHANDAPANI,J.

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