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W.P.Nos. 228 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

W.P.No. 228 of 2020

Union of India
Represented by the Under Secretary to
The Government of India,
Ministry of Finance, Department of Revenue,
Office of the Chief Excise and Customs,
6th Floor, C-Wing, HUDCO Vishala Building,
Bhikaji Cama Place, New Delhi – 110066.

..Petitioner

Vs

1. S.X. Jayaraj

2.The Registrar
Central Administrative Tribunal,
Chennai Bench, Chennai-600104.

Prayer : Writ petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari, calling for the records on the file of the 2nd respondent in its final order made in O.A.No.1410 of 2018 dated 14.03.2019 and to quash the same as illegal and arbitrary.

For Petitioners : Mrs. R.Hemalatha

For Respondents : Mr.V.S.Venkatesh - R1
R2- Tribunal



W.P.Nos. 228 of 2020

WEB COPY

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the order passed by the tribunal in 1st respondent in O.A.No. 1098 of 2011 and O.A.No. 1466 of 2011, dated 26.08.2014, the present writ petition has been filed.

2. The learned counsel for the petitioner-department has submitted that a criminal case was registered against the 1st respondent in C.C.No. 11/2008 before the II Addl. District Judge for CBI Cases, Madurai under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 for the charges of possession of disproportionate assets and directed to undergo 3 years rigorous imprisonment and to pay fine of Rs.1,00,000/- or in default to undergo 6 months rigorous imprisonment.

3. The learned counsel for the petitioner-department has submitted that challenging the said conviction, the 1st respondent preferred an appeal in CrI.Appl (MD).No. 140/2015 before the Madurai Bench of Madras High



W.P.Nos. 228 of 2020

Court, Madurai. The Madurai Bench, by order dated 10.06.2015 in M.P.No.

1 of 2015 suspended the sentence of imprisonment and enlarged the 1st respondent on bail on condition that he shall report on the first working day of every month before the trial Court pending disposal of the above appeal. Subsequently, the petitioner herein was issued with a show cause notice dated 30.06.2017 under Section 9 of CCS (Pension) Rules, 1972 informing the 1st respondent as to why the penalty of withholding of full monthly pension otherwise admissible and withholding of gratuity on permanent basis upon the 1st respondent on the gravity of misconduct. The said penalty was also confirmed by the disciplinary authority.

4. The learned counsel for the petitioner-department has submitted that the 1st respondent has filed two separate applications before the tribunal viz., O.A.No. 1579 of 2017 challenging the said show cause notice dated 30.06.2017 and another O.A.No. 1410 of 2018 challenging the order passed by the petitioner dated 05.03.2018, confirming the proposal in the said show cause notice. The said applications were disposed of by the tribunal direction to consider the case of the application in light of the order of the



W.P.Nos. 228 of 2020

tribunal passed in O.A.No. 1013 of 2014, dated 06.04.2016 relied by the applicant.

5. The contention of the petitioner-department is that the tribunal without considering the fact that the criminal appeal filed by the 1st respondent is pending as on date before the Madurai Bench of Madras High Court, has directed the petitioner-department to consider the case of the petitioner in light of the order passed in O.A.No.1013 of 2014, dated 06.04.2014 which was ordered based on the criminal appeal ended in acquittal.

6. During the course of arguments, it is brought to the notice of this Court that the criminal appeal filed by the 1st respondent in CrI.A (MD).No. 140 of 2015 was allowed and conviction and sentence imposed on the 1st respondent was set aside by the Madurai Bench of the Madras High Court by Judgment dated 28.02.2020. A copy of the said judgment was also placed before this Court.



W.P.Nos. 228 of 2020

WEB COPY

7. In view of the said acquittal from charges and in view of no disciplinary proceedings are pending as against the 1st respondent as on date, this Court is of the view that the 1st respondent is entitled for retirement benefits. Accordingly, the following directions are issued:

- i. The 1st respondent is directed to submit a fresh representation to the petitioner-department requesting retirement benefits, within a period of two weeks from the date of receipt of a copy of this order.
- ii. Upon receipt of such representation, the petitioner-department shall consider the same and pass appropriate orders for granting retirement benefits to the 1st respondent as expeditiously as possible.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K., J.) (P.D.B., J.)

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5 / 6



WEB COPY



W.P.Nos. 228 of 2020

D.KRISHNAKUMAR, J.
AND
P. DHANABAL, J.
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W.P.No. 228 of 2020
and WMP.No 256 and 258 of 2020

22.11.2023