



WEB COPY



W.P.No.15452 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15452 of 2013
and M.P.No.1 of 2014

M.Sachithanandam

... Petitioner

Vs.

1. The Tahsildar,
Gobichettipalayam.

2. The Revenue Divisional Officer,
Gobichettipalayam.

3. The Sub-Collector,
Gobichettipalayam.

4. The District Collector,
Erode District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Mandamus, calling for the records of the first respondent pertaining to his Memo dated 27.02.2013 in Roc.No.15090/2006/A2, quashing the same and directing the terminal and Retirement benefits to the petitioner legally due to him, with interest at the rate of 12% per annum, from 30.09.2006, till the full settlement of the said benefits.



WEB COPY



W.P.No.15452 of 2013

For Petitioner : Ms.C.Swetha for
Mr.A.Thiyagarajan

For Respondents : Mr.V.Veluchamy,
Additional Government Pleader

ORDER

This Writ Petition has been filed, challenging the orders passed by the 1st respondent in Roc.No.15090/2006/A2, dated 27.02.2013, refusing to grant of retirement benefits to the petitioner.

2. The petitioner was appointed as Village Administrative Officer, and while he was in duty at Pariyur Village at Gobichettipalayam Taluk, criminal proceeding was initiated as against the petitioner in C.C.No.84 of 2005 on the file of the Judicial Magistrate Court No.IV, Coimbatore alleging that the petitioner issued false ownership certificate to the land owner for availing loan from the Primary Agriculture cooperative Society Bank, Allukuli. At that time, he was about to retire from service on attaining superannuation on 30.09.2006. Therefore, the 3rd respondent issued proceedings dated 30.09.2006, allowing the petitioner to retire from his service as on 30.09.2006 without prejudice to the criminal



W.P.No.15452 of 2013

proceedings pending in C.C.No.84 of 2005 and granted provisional pension and provisional gratuity up to the date of disposal of the criminal case. Therefore, the petitioner made representation to the 1st respondent to pay his retirement benefits. But it was declined by the 1st respondent in view of the pendency of the criminal case in C.C.No.84 of 2005 on the file of the Judicial Magisterial IV, Coimbatore.

3. The learned counsel for the petitioner submitted that the gratuity cannot be withheld due to the pendency of the criminal case. No disciplinary proceedings have been initiated as against the petitioner and as such there is no valid retention order against the petitioner. As such the gratuity and other terminal benefits which are eligible to the petitioner, cannot be withheld on the ground that the criminal case is pending. The criminal case of the year 2005 does not reach its finality even till today. Now the petitioner is aged 74 years.

4. In support of his claim, the learned counsel for the petitioner relied on a similar case in W.P.No.6312 and 6313 of 2014 dated



W.P.No.15452 of 2013

WEB COPY

15.04.2014 wherein this Court set aside the suspension order and directed to settle all retirement benefits except pension under the provisions of the Tamilnadu Pension Rules, subject to the outcome of the criminal proceedings initiated.

5. On perusal of the counter filed by the 1st respondent, it revealed that while the petitioner was working as Village Administrative Officer of Allikuli “B” Village for the period from 01.07.1996 to 21.12.1999, he issued certificate to one Karuppayal who actually do not have land. In order to cheat the bank, he had issued bogus land holding certificate to he said Karuppayal and thereby she borrowed a sum of Rs.44,590/- and that he misappropriated the said amount. Simultaneously, he had issued so many certificates and thereby he misappropriated total sum of Rs.3,78,070/-. On the complaint given by CCIW, CID Erode unit, a case was registered in Crime No.17/2004 for the offences punishable under Sections 408, 409, 468, 471 and 477(A) I.P.C r/w.109 I.P.C., in which the petitioner is arrayed as one of the accused, and based on which the petitioner was arrested and remanded to judicial custody on 22.10.2005.



W.P.No.15452 of 2013

After the completion of investigation, Charge sheet was laid and the same has been taken cognizance in C.C.No.84 of 2005 and it is pending trial before the Judicial Magistrate IV, Coimbatore. Now the said C.C.No.84 of 2005 is transferred to the file of the Judicial Magistrate II, Erode and renumbered as C.C.No.1237 of 2019 and the same is pending for trial. Only because of the pendency of the criminal case, pension has not been sanctioned in favour of the petitioner and the same will be sanctioned depends upon the outcome of the criminal case. Further it appears that the petitioner was reinstated into service by an order dated 14.03.2006 due to his retirement of superannuation and he was ordered to retire from service on 30.09.2006. The petitioner has been paid provisional pension, withholding Gratuity and other service benefits.

6. Considering the facts and circumstances of the case, the 1st respondent is directed to grant Gratuity to the petitioner. Insofar as the terminal benefits are concerned, it may be considered subject to the result of the criminal proceedings.



W.P.No.15452 of 2013

7. With the above direction, this Writ Petition stands disposed of.

WEB COPY

No costs. Consequently, connected miscellaneous petition is closed.

20.07.2023

Speaking Order/Non-Speaking Order

Index: Yes/No

vum

To

1. The Tahsildar,
Gobichettipalayam.
2. The Revenue Divisional Officer,
Gobichettipalayam.
3. The Sub-Collector,
Gobichettipalayam.
4. The District Collector,
Erode District.



WEB COPY



W.P.No.15452 of 2013

G.K.ILANTHIRAIYAN,J.

vum

W.P.No.15452 of 2013
and M.P.No.1 of 2014

20.07.2023