IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.11.2023**

CORAM :

THE HON'BLE Ms. JUSTICE R.N. MANJULA

W.P.No.17103 of 2021

S.Ravi … Petitioner

Versus

1.The Secretary,
Revenue Department,
Secretariat, Chennai – 600 009.

2.The Addl.Chief Secretary/Commissioner of
Revenue Administration,
Ezhilagam, Chepauk, Chennai.

3.The Principal Accountant General (A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai – 600 018. … Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration, to call for the records pertaining to the order bearing Proc.No.RA3(1)/1281/2019, dated 28.07.2021 of the second respondent and quash the same and further direct the respondents to pay regular pension and arrears of pension from the date of retirement of the Petitioner viz., 31.12.2018 as per the original pension sanction order dated 27.06.2019 and release all other terminal benefits viz., DCRG commuted value of pension, etc., payable to the petitioner together with interest at the rate of 12% per annum from 01.01.2019 till the date of realization.

For Petitioner : Mr. K.S.Viswanathan, Senior Counsel
for M/s. T. Hemalatha

For Respondents : Mr. G. Nanmaran,
Special Government Pleader

O R D E R

The petitioner filed this Writ Petition seeking a direction to pay regular pension from the date of retirement of the petitioner i.e., 31.12.2018 as per the original pension sanction order dated 27.06.2019 and release all other terminal benefits viz., DCRG commuted value of pension, etc., payable to the petitioner together with interest at the rate of 12% per annum from 01.01.2019 till the date of realization.

2.The petitioner who was working as Deputy Collector in Tamil Nadu State Marketing Corporation Ltd., Chennai (South) had attained Superannuation on 31.12.2018 and he was allowed to retire by G.O.(2D).No.387, Revenue and Disaster Management Department. The Second respondent / The Additional Chief Secretary/Commissioner of Revenue Administration, sent a pension proposal to the Principal Accountant General for payment of pension benefits to the petitioner. By virtue of the order dated 27.06.2019 of the Accountant General, a regular pension was sanctioned to the petitioner. However, the Treasury Officer, Coimbatore has insisted the petitioner to obtain a "No Objection Certificate" from the second respondent. The petitioner made various representations to the second respondent for sanctioning "No Objection Certificate" in order to disburse the pension amount. There was no response from the second respondent. Therefore, the petitioner filed a Writ Petition in W.P.No.11990 of 2020, for the said relief.

3.It is submitted by the learned counsel for the petitioner that during the pendency of the Writ Petition, a Status Report was filed by the second respondent, where from the petitioner came to know that on certain allegations a case was registered against the petitioner under the Director of Vigilance and Anti Corruption (DVAC), Chennai. The second respondent has written a letter to the Accountant General stating that the Government has permitted the Director of Vigilance and Anti Corruption to register a regular case against the petitioner under Section 17(A) of the Prevention of Corruption (Amendment) Act, 2018 and requested to cancel the original authorization of Pension, DCRG and commuted value of pension. Consequently, the sanctioning order of the petitioner was cancelled and the petitioner was given with the provisional pension by an order dated 28.07.2021. Now, this Writ Petition has been filed challenging the above impugned order dated 28.07.2021.

4.The learned counsel for the petitioner attracted the attention of this Court to Rule 9 and Rule 69 of the Tamil Nadu Pension Rules and submitted that the competent authority does not have the right to withhold the pension or withdraw the pension except when a pensioner is found guilty of grave misconduct and negligence during his period of service or if any departmental or judicial proceedings was initiated against him; until the petitioner got superannuation, no departmental or judicial proceedings were pending against him and to the knowledge of the petitioner, no such proceedings have been contemplated against him, and hence the order for provisional pension needs to be passed. As there is no departmental or judicial proceedings pending against the petitioner. Hence, the second respondent has no authority to withdraw the pension order which has already been issued.

5.It is submitted by the learned Special Government Pleader for the second respondent that during the pendency of the proceedings, "No Objection Certificate" has been granted by the second respondent to the District Treasury Officer, Coimbatore on 31.10.2023 based on the report furnished by the District Collector, Chennai, dated 18.10.2023. It is said that the petitioner has also sent the required bank account details so as to enable the commissionerate to send the “No Objection Certificate” to the Pay and Accounts Office for disbursing the Death cum Retirement Gratuity.

6.It is further submitted that the provisional pension was stopped only in view of the report obtained from the Director of Vigilance and Anti Corruption for registering a regular case against the petitioner. However, it is now clarified that the second respondent has now convinced to release full pension itself to the petitioner.

7.The learned counsel for the petitioner submitted that the petitioner's endeavour is to get back his full pension and if any such communication is sent to the Commissioner, he would willingly cooperate with the second respondent by furnishing necessary documents.

8.Heard Mr. K.S. Viswanathan, the learned Senior Counsel for the petitioner and Mr. G. Nanmaran, the learned Special Government Pleader appearing for the respondents.

9.In view of the above development, it is up to the petitioner to produce the necessary details to the second respondent so as to enable the second respondent to send the no objection certificate to the Pay and Accounts Office. Since the petitioner's grievance has been redressed due to the subsequent action taken by the second respondent, nothing remains for consideration in this regard. However, the respondents are directed to consider the request of the petitioner and to pay the regular pension and arrears of pension from the date of retirement and till the initiation of proceedings dated 28.07.2021, within a period of six weeks from the date of receipt of a copy of this order and the interest if any thereon.

10.With the above observation and direction, the Writ Petition is disposed of. No costs.

06.11.2023

Index : Yes/No
Speaking / Non-Speaking order
Neutral Citation : Yes/No
klt

To:
1.The Secretary, Revenue Department,
Secretariat, Chennai – 600 009.

2.The Addl.Chief Secretary/Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai.

3.The Principal Accountant General (A & E) Tamil Nadu,
No.361, Anna Salai, Chennai – 600 018.

R.N. MANJULA, J.

klt

W.P.No.17103 of 2021

06.11.2023