



WP No.5029 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.5029 of 2016

And

W.M.P.No. 4387 of 2016

P.N.Palanisamy

... Petitioner

-Vs-

1. The Additional Director General of Police (Armed Police)
Lotus Garden, Kilpauk, Chennai – 600 010.

2. The Commandant
Tamilnadu Special Police
Mangalampettai Post,
Ulundurpet – 606 104
Villupuram District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order dated 11.08.2015 passed by the second respondent by his proceedings in Na.Ka.No.C2/199/2013, quash the same,



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consequently direct the respondents herein to pay the arrears of House Rent Allowance (H.R.A.) and City Compensatory Allowance (C.C.A.) of the petitioner for the period 23.04.1999 to 31.10.2011.

For Petitioners : Mr. K.Thilageswaran

For Respondents : Mr. S.Ravi Kumar
Special Government Pleader

ORDER

Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with an order dated 11.08.2015 passed by the second respondent, the Commandant, Tamilnadu Special Police, Mangalampettai Post, Ulundurpet, Villupuram District, by proceedings in Na.Ka.No.C2/199/2013 and direct the respondents to pay arrears of House Rent Allowance (H.R.A.) and City Compensatory Allowance to the petitioner for the period from 23.04.1999 to 31.1.2011.

2. The petitioner was serving as Assistant Commandant in Tamil



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Nadu Special Police. He attained the age of Superannuation on 30.04.1999. However since there were disciplinary proceedings which were pending, he was suspended from service on 28.08.1999 and was not permitted to retire on 30.04.1999. He then filed an application before the Tamil Nadu Administrative Tribunal and by an order dated 11.07.2002, the charges framed against him were set aside and the Tribunal held that he was entitled for all service and monetary benefits. The order of suspension was also revoked and the petitioner was permitted to retire from service with effect from 30.04.1999.

3. The petitioner claims that he was receiving House Rent Allowance and City Compensatory Allowance during the period of his service. After the suspension period was revoked, he sought payment of arrears of the aforesaid allowances. However, by the impugned order dated 11.08.2015, it had been rejected by the second respondent.

4. In the counter affidavit filed by the respondents, it had been stated as follows in paragraph No.6:-



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“With regard to para (b) of grounds I submit that this petitioner has failed to note that he was placed under suspension and he was given extension of service only under 56(1)(c) wherein it was clearly stated that during such extension of such service, the service rights due to him shall freeze at the level reached on the date of superannuation 30.04.1999 and that the salary during the period from 01.05.1999 onwards shall not exceed the provisional pension which would have accrued to him on that date. As such he was granted provisional pension from 01.05.1999 for which he is eligible to get D.A., also. The service and Monetary Rights like HRA and C.C.A admissible to him while on duty according to the place of duty. However, it may be noted that after 01.05.1999 he was not on duty. Hence, he is not eligible to get H.R.A and C.C.A.”

5. Heard Mr.K.Thilageswaran, learned counsel appearing on



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behalf of the petitioner and Mr.S.Ravi Kumar, learned Special Government Pleader appearing on behalf of the respondents.

6. The learned counsel for the petitioner pointed out the order of suspension which had been issued against the petitioner herein and stated that in the said order, though the petitioner has been placed under suspension, it had been very specifically stated that he is retained in service and therefore, contended that since he had been retained, the aforementioned allowances should be paid to the petitioner herein.

7. This stand of the petitioner is very seriously questioned and disputed by the learned Special Government Pleader. According to the learned Special Government Pleader, from the date of attaining the age of superannuation, namely, 30.04.1999, the relationship of employer / employee stood frustrated and therefore, the petitioner had no right to occupy any Government quarters or the quarters in which he was permitted to occupy during the course of his employment. Even if he had been residing in a private residence, question of House Rent Allowance will never apply. Similarly, even in the case of City Compensatory Allowance, the said



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allowance is granted to a Government servant while in service to compensate additional expenses which could be incurred consequent to the area in which he is posted. The City Compensatory Allowance is therefore proportionate to the cost index of the particular area where the Government servant is posted after retirement on attaining the age of superannuation. There is no obligation at all on the part of the Government to pay either one of these two allowances.

8. The learned Special Government Pleader pointing out the above proposition and stated that the petitioner was not entitled to any of the allowances as sought for by him.

9. I have carefully considered the arguments advanced.

10. The contention of the learned counsel for the petitioner that the petitioner is entitled for House Rent Allowances and City Compensatory Allowances only because of the statement in the suspension order that “the petitioner is retained in service” is not justifiable on the ground that the petitioner has been retained in service for the purpose of disciplinary proceedings alone. Only if the petitioner is retained in service, would the respondents have a legitimate right to continue with the disciplinary



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proceedings. It is for that purpose that the petitioner was retained in service and not to give any additional benefit or any allowances. The employer and employee relationship is frustrated on the date of attaining the age of superannuation. Thereafter, there is no salary paid to any government servant but only pension and also other benefits for the period of service from the date of joining till date of retirement. After the date of retirement, no allowances are payable. The petitioner's claim is misconceived. The Writ Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

C.V.KARTHIKEYAN, J.,

vsg

To

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2. WEB COPY

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