

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM

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

WP No.5193 of 2016

And

W.M.P.No. 4565 of 2016

K.Thangavelu

... Petitioner

-Vs-

1. The Additional Director of Survey
and Land Records, Chennai.

2. The Assistant Director of Survey
and Land Records
District Survey Unit
Coimbatore.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No. Na.Ka.A4/8892/2015, dated 24.11.2015 and quash the same and consequently, directing the second respondent to disburse the retirement benefits gratuity, general provident fund, special provident fund, encashment of earned leave and encashment of unearned leave on private affairs to the petitioner.

For Petitioner : Mr. C.Prakasam
For Respondents : Mr.S.Ravi Kumar
Special Government Pleader

ORDER

Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the impugned order dated 24.11.2015 in Na.Ka.A4/8892/2015 passed by the second respondent / the Assistant Director of Survey and Land Records, District Survey Unit, Coimbatore and direct the said respondent to disburse the retirement benefits gratuity, general provident fund, special provident fund, encashment of earned leave and encashment of unearned leave on private affairs to the petitioner.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner joined the respondent Department as a Field Surveyor on 12.01.1983 and he was promoted to Sub Inspector of Surveyor on 20.11.1998. He then further got promotion as Deputy Inspector of Survey on 18.10.2013. While he was discharging his duties as Deputy

Inspector of Survey in Madukkarai Taluk Office, Coimbatore, he was arrested by the Inspector of Police, Vigilance and Anti-Corruption, Coimbatore consequent to registration of FIR in Crime No. 4 of 2015 based upon the allegations given by one K.Mani @ Ayyamuthu. Thereafter, the second respondent had issued an order of suspension on 27.05.2015 under the provisions of the Tamil Nadu Civil Service Discipline and Appeal Rules.

3. The respondents also issued charges under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The Departmental proceedings is on going and the criminal case is also on going. He attained the age of superannuation on 31.07.2015. He was not permitted to retire from service till final orders are passed by the respondents. Complaining that the respondents have not disbursed the retirement benefits, the Writ Petition has been filed consequent to the impugned order dated 24.11.2015 wherein it had been stated that since the petitioner had not been permitted to retire, his retirement benefits will not be granted to him. However, his contribution can be obtained by him if he applies in appropriate form.

4. The learned Special Government Pleader had obtained instructions relating to the criminal case which had been registered against the petitioner herein. It had been stated that Crime No. 4 of 2015 had been registered by the Vigilance Department at Coimbatore under Sections 7 and 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

5. In short, it is for the offences of demand and acceptance of bribe. The trial is now pending in the Court of Special Judge, Special Court for cases under Prevention of Corruption Act at Coimbatore. It had been stated that on 14.12.2021, PW-1 had been examined in chief but the petitioner had not come forward to cross examine the witness. Thereafter, PW-2 the defacto complainant had also been examined in chief and the matter is now listed to 28.07.2023.

6. It is only appropriate that the petitioner participates in the criminal trial. He should concentrate on that particular aspect first. Since

the criminal trial is pending, the petitioner cannot be permitted to retire and it is the result of the criminal trial which would decide the fate of the petitioner herein. Therefore, this Court cannot direct payment of retirement benefits or any other aspects to the petitioner herein since he has not been permitted to retire but the petitioner may approach the appropriate forum as stated in the last two lines of the impugned order and to that extent alone his benefits will be repaid.

7. Holding as above, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is also dismissed.

19.07.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

C.V.KARTHIKEYAN, J.,

WP No.5193 of 2016

vsg

To

1. The Additional Director of Survey
and Land Records, Chennai.
2. The Assistant Director of Survey
and Land Records
District Survey Unit
Coimbatore.

WP No.5193 of 2016
And
W.M.P.No. 4565 of 2016

19.07.2023

