



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.10.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.23539 of 2021
&
W.M.P.Nos.24762 & 24763 of 2021

A. Dhianeswaran

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Petitioner

versus

1. The Director,
Medical and Rural Health Services,
Chennai 600 006.
2. The Joint Director of Health Service,
Erode.
3. The Medical Officer/ Enquiry Officer,
Government Hospital,
Gobichettipalayam.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of certiorarified Mandamus to call for the records
relating to the impugned proceedings of the 2nd respondent made in



Ref.No.5327/SC/2019 dated 04.08.2021 and quash the same and further direct the respondents 1 and 2 to disburse the retirement benefits of the petitioner together with interest.

For Petitioner : Mr. M. Muthappan
For Respondents : Mr.G. Nanmaran,
Special Government Pleader

ORDER

Challenging the order passed by the second respondent in Ref.No.5327/SC/2019 dated 04.08.2021, the present Writ Petition has been filed.

2. The petitioner was working as a driver under the second respondent from the year 1990. During his service, i.e., on 29.08.2018, an accident occurred and a criminal case was registered against him in Crime No.362 of 2018 for the offences under Sections 279 and 304(A) of IPC and the same was ended in acquittal on 31.10.2019 by the Judicial Magistrate, Sulur, Coimbatore. Simultaneously, disciplinary action has also been



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initiated against him, for which charge memo has also been issued to the petitioner under Rule 17(b) of the Tamilnadu Civil Service (D & A) Rules. Subsequently, the petitioner was allowed to retire from service on 30.06.2019 by proceedings dated 28.06.2019 with the condition that the disciplinary proceedings pending against the petitioner shall be continued under Rule 9 of the Tamilnadu Pension Rules 1978. Thereafter, an enquiry officer has also been appointed by virtue of the proceedings of the second respondent dated 12.05.2020. Again, another enquiry officer was appointed on 22.07.2020 by the 2nd respondent and the said enquiry officer has completed the enquiry. Even after completion of enquiry, once again the 2nd respondent by its another proceedings on 04.08.2021 appointed a new enquiry Officer for the very same enquiry. Aggrieved over the same, the present writ petition has been filed.

3. The learned counsel for the petitioner has submitted that through Right to Information Act, the petitioner has obtained an enquiry report submitted by the second enquiry officer. From there, it is seen that the enquiry officer has arrived at a conclusion that the charges against the petitioner were not proved. Without furnishing the copy of the said enquiry



report, the 2nd respondent by virtue of the impugned proceedings appointed another enquiry officer, which is against the principles of natural justice.

Having closed the enquiry, once again it is open without any valid reasons and it is beyond the powers of the second respondent. Even though the petitioner was allowed to retire from service, retirement benefits has not been given to the petitioner, that was the subject matter of the result of the enquiry proceedings. Since enquiry proceedings has been completed and finding has also been given that the charges were not proved, all the retirement benefits due to the petitioner ought to have been released. But, so far it has not been released.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that since there was a contradiction in the preliminary enquiry report and the final enquiry report the 2nd respondent deems it fit to appoint a fresh enquiry officer to make a proper enquiry, and hence, the impugned order has been passed.



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5. I have considered the matter in the light of the submissions made by the learned counsel on both sides and perused the materials available on records carefully.

6. On perusal of the enquiry report, which was submitted by the petitioner, it is seen that one M.Gopalakrishnan, the enquiry officer had given a finding that there is no evidence to prove that the alleged accident had taken place due to the rash and negligent driving of the petitioner. Without noticing the completion of enquiry, the second respondent has appointed another enquiry officer, instead of furnishing a copy of the enquiry report to the petitioner. Since the charges against the petitioner were not proved, the 2nd respondent is liable to pay the retirement benefits to the petitioner. For the very same reason, it is wrong on the part of the 2nd respondent to once again appoint a fresh enquiry officer.



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7. In the result, this Writ Petition is allowed and the impugned order passed by the second respondent in Ref.No.5327/SC/2019 dated 04.08.2021 is hereby quashed and the second respondent is directed to disburse all the retirement benefits together with interest at the rate of 9% per annum to the petitioner within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

13.10.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

mrp

To

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R.N.MANJULA, J.

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