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W.P.No.27616 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.27616 of 2022
and WMP Nos.26887 and 26888 of 2022

V.Vedachalam

...Petitioner

Vs

1. The Director General of Police,
Mylapore, Chennai-600 004.

2. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Rc.No.67610/Con.II(2)/2007 dated 12.12.2017 and quash the same and consequently direct the respondents to disburse the petitioner's pension along with retirement benefits like Gratuity, General Provident Fund, Special Provident Fund, Encashment Earned Leave and Unearned Leave on Private Affairs with interest.

For Petitioner : Mr.JR.Hemalatha



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For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

In a trap case registered by the authorities of Vigilance and Anti-Corruption, a case in Cr.No.20 of 2005, the petitioner along with the Inspector viz., S.Krishnan, was implicated for the offence punishable under Prevention of Corruption Act. The Criminal Special Case No.3/2008 on the file of Chief Judicial Magistrate, Chengalpattu ended in acquittal through an order dated 24.04.2015. In the meantime, the Commissioner of Disciplinary Proceedings had conducted enquiry and charges against the petitioner was held to be proved in the final report dated 10.12.2015. The petitioner had submitted his further representation on 20.04.2016. Through the impugned order dated 12.12.2017, the first respondent herein, had imposed the punishment of compulsory retirement, which is now put under challenge in the present writ petition.

2. Learned counsel for the petitioner submits that since the respondents do not have any authority to withhold the pensionary benefits and also since the punishment is one of the compulsory retirement, the



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petitioner is entitled for the benefits from the date of punishment.

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3. Per contra, learned Government Advocate place reliance on the averments in the counter affidavit and submits that the Director, DVAC has filed an appeal against the acquittal before this Court on 05.08.2015 in C.A.SR.No.34951 of 2015 and the same is yet to be numbered. He further submits that since the charges against the petitioner are serious in nature and also the co-delinquent viz., the Inspector of Police had challenged the enquiry proceedings before this Court, which has been stayed, they are not in a position to disburse the benefits.

4. It is not in dispute that under Service Regulations, governing the respondent department, the respondents are not empowered to withhold the retirement and pensionary benefits to a member of their service for punishment of compulsory retirement. The only objection seems to be that the Director of DVAC has preferred an appeal before this Court. Even assuming that the judgment of the appeal has been challenged, I am unable to comprehend as to how the retirement and pensionary benefits can be



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withheld, particularly, when the first respondent herein had chosen to impose the punishment of compulsory retirement. This apart, the proceedings as against the co-delinquent viz., S.Krishnan, the Inspector of Police will not be an embargo or impediment to disburse the benefits to the petitioner herein. Pendency of such proceedings against the co-delinquent will have absolutely no bearing on the case of the petitioner. Thus, when the first respondent himself has chosen to relieve the petitioner by imposing the punishment of compulsory retirement, the petitioner would be entitled for all the retirement benefits from the date of such punishment i.e., 12.12.2017 together with interest.

5. At this juncture, learned counsel for the petitioner submits that the petitioner would be satisfied if the retirement benefits are disbursed at the earliest and no interference may be required to the impugned order of punishment.

6. Recording the submission of the learned counsel for the petitioner, there shall be a direction to the first respondent herein to forthwith disburse



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all the retirement benefits including pensionary benefits to the petitioner together with interest at the rate of 6% p.a within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

06.06.2023

Index:Yes
Speaking order
sr



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M.S.RAMESH,J.

Sr

To

1. The Director General of Police,
Mylapore, Chennai-600 004.
2. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

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