



W.P.(MD).No.18255 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18255 of 2023

I.Rajamarthandan

... Petitioner

Vs

1. The Secretary to Government,
Home Department, The Secretariat,
Chennai.
2. The Director General of Police,
Tamilnadu, Chennai.
3. The Superintendent of Police,
Kanyakumari District, Nagercoil.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner, dated 24.12.2021 seeking disbursement of the retirement benefits, such as earned leave salary and private affairs leave salary payable to the petitioner along with interest and refix the pensionary benefits in the post of Sub Inspector of Police and disburse the same with arrears within a stipulated time fixed by this Court.



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For Petitioner : Mr. T.Antony Arulraj

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present writ petition has been filed seeking a direction to the respondents to consider the representation of the petitioner, dated 24.12.2021, seeking disbursement of the retirement benefits, such as earned leave salary and private affairs leave salary payable to the petitioner along with interest and refix the pensionary benefits in the post of Sub Inspector of Police and disburse the same with arrears within a stipulated time fixed by this Court.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, T.Antony Arulraj, learned counsel appearing for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents. Perused the materials on record.



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4.(i).The petitioner joined in the Police Department as Grade II Police Constable on 01.08.1984. After completion of 10 years, he was granted with Selection Grade on 01.01.1996. Then, he was promoted as Grade I Police Constable on 01.12.1996 and the same was upgraded with effect from 25.07.1995. Thereafter, he was promoted as Head Constable on 25.09.2002 and the said promotion was revised and upgraded with effect from 25.07.2000. After completion of Board test, he was promoted as Sub Inspector of Police on 22.05.2006, thereafter, on completion of 10 years, he was awarded with Selection Grade on 24.05.2016.

(ii).On attaining the age of superannuation, he retired on 31.05.2016. His last month pay was Rs.14,940/- + Grade pay of Rs.4,800/-.

(iii).The Department has submitted pensionary proposal to the Accountant General, wherein, objection was received, with regard to the payment of benefit in the post of Grade I Police Constable on 25.07.1995, with effect from 25.07.2000. As per the Audit objection, the Department has paid an excess amount to the tune of Rs.1,61,262/- for the said upgradation. Thereafter, on that basis, the Department has revised the pensionary proposal by even fixing the scale of pay below the minimum pay band of Sub Inspector of Police and forwarded the same to the Accountant General. However, the petitioner's



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retirement benefits, earned leave salary and personal affair leave salary for a period of 11 months in the post of Sub Inspector was withheld by the Department and he was directed to pay the excess amount of Rs.1,61,262/- vide proceedings of the third respondent, dated 20.09.2018. However, he objected the said withholding of benefits payable to him on 31.10.2018. The objection of the petitioner was forwarded by the Commissioner of Police, Nagercoil to the Government, vide proceedings dated 03.11.2020 and the same is pending endlessly without any consideration. Hence, the petitioner preferred a representation, dated 24.12.2021 and the same was forwarded by the second and third respondents to the first respondent for consideration. As a result of which, the present writ petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking



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its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

6.It is made clear that without going into the merits of this case, this Court is hereby directs the first respondent to consider the representation of the petitioner, dated 24.12.2021 and pass appropriate order, in accordance with law, with regard to his objection, dated 31.10.2018, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

7.Accordingly, this writ petition stands disposed of. There shall be no order as to costs.

30.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Secretary to Government,
Home Department, The Secretariat,
Chennai.

2. The Director General of Police,
Tamilnadu, Chennai.

3. The Superintendent of Police,
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L.VICTORIA GOWRI, J.

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ORDER IN
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