



W.P(MD).No.21115 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 13.12.2023

ORDER PRONOUNCED ON : 18.12.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.21115 of 2022
and WMP(MD).Nos.15326 & 15327 of 2022**

K.Ramachandran

....Petitioner

Vs

1.The Director General of Police
Office of the Director General of Police
Dr.Radhakrishnan Salai
Chennai

2.The Superintendent of Police
Office of the Superintendent of Police
Thanjavur District

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings issued by the first respondent in R.C.No.Con.II(1)/130369/2015 dated 19.04.2022 and quash the same and consequently directing the respondents to forthwith release all the retirement benefits and other payments payable to the petitioner.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader



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ORDER

The present writ petition has been filed by a retired Head Constable challenging the order of punishment of cut in pension of Rs.500/- per month for a period of 12 months in PR.No.30 of 2018 under Rule-9 of Tamil Nadu Pension Rules, 1978.

2.The admitted facts are as follows:

(i)A criminal case was registered as against the petitioner in Crime No.1 of 2005 under the Prevention of Corruption Act and he was placed under suspension on 25.09.2009. A charge sheet was laid in S.C.No.53 of 2011 before the Special Court for Vigilance and Anti Corruption Cases, Trichy. The petitioner was acquitted on 24.12.2014.

(ii)Pending criminal proceedings, the petitioner was placed under suspension on 25.09.2009 and the said suspension was continued till his acquittal. The petitioner reached superannuation on 31.01.2013. However, he was not permitted to retire due to the pendency of criminal proceedings by order dated 28.01.2013. This order of retention in service was challenged in W.P(MD).No.16756 of 2015. This Court by an order dated 19.04.2018 had directed the authorities to complete the enquiry within a period of six months. If the said enquiry is not completed within the said period, it shall be presumed that there is no disciplinary proceedings in the eye of law as against



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the petitioner and he would be permitted to retire from service with all consequential benefits.

(iii)The order of this Court was not complied with and hence, the petitioner had filed Contempt Petition (MD).No.1364 of 2021. This Court was pleased to observe that in the eye of law there could be no disciplinary proceedings beyond six months period and therefore, the petitioner would be entitled to get retirement benefits after getting retirement peacefully.

(iv)In the meanwhile, the petitioner had filed W.P(MD).No.24245 of 2019 seeking mandamus for disbursement of terminal benefits. Citing the pendency of the writ petition, the contempt petition was closed giving liberty to the petitioner to pursue the said writ petition.

(v)Before the petitioner could pursue W.P(MD).No.24245 of 2019, the present impugned order came to be passed on 19.04.2022 imposing punishment of cut in pension of Rs.500/- per month for a period of 12 months. In view of the present impugned order, the petitioner has chosen to withdraw WP(MD).No.24245 of 2019 and had filed the present writ petition challenging the imposition of punishment.

3.According to the learned counsel for the petitioner in WP(MD).No. 16756 of 2015, this Court has categorically held that if the disciplinary proceedings are not completed within a period of six months, it should be presumed that there are no disciplinary proceedings in the eye of law and the



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petitioner should be permitted to retire with all service benefits. In Contempt Petition(MD).No.1364 of 2021, again this Court was pleased to observe that the disciplinary proceedings beyond six months period is not valid in the eye of law. Therefore, the present order impugned in the writ petition is not valid and the same has to be set aside.

4.Per contra, the learned Additional Government Pleader appearing for the respondents had contended that though this Court was pleased to observe that the disciplinary proceedings beyond a period of six months is not valid in the eye of law, this Hon'ble Court has closed the contempt proceedings and granted liberty to the petitioner to proceed with WP(MD).No.24245 of 2019. The petitioner has chosen to withdraw the said writ petition and therefore, the petitioner cannot rely upon the observation of this Court either in WP(MD).No.16756 of 2015 or in Contempt Petition (MD).No.1364 of 2021.

5.Mere acquittal in criminal proceedings cannot be relied upon by the writ petitioner for seeking exoneration from the departmental proceedings. Hence, he prayed for sustaining the order passed by the first respondent herein.

6.I have considered the submissions made on either side and perused the material records.

7.This Hon'ble Court in its order dated 19.04.2018 in **WP(MD).No. 16756 of 2015 (K.Ramachandran Vs. The Superintendent of Police,**



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Thanjavur District) in paragraph Nos. 14 and 15 has held as follows:

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“14.In the circumstances of the case, the following orders are passed in this writ petition.

(i)That the respondent is hereby directed to expedite the approval process from the Department of Vigilance and Anti Corruption and if at all the Department of Vigilance and Anti Corruption given any approval, the same shall be served on the petitioner immediately and thereafter enquiry shall be conducted by appointing an enquiry officer and it shall be concluded at the earliest.

(ii)The aforesaid action shall be undertaken by the respondent within the outer limit of six months from the date of receipt of a copy of this order.

15.It is further made clear that if within the six months, the aforesaid action directed to be undertaken, has not been completed, it shall be presumed that there is no disciplinary proceeding in the eye of law against the petitioner and on completion of the six months period without completing the disciplinary proceedings, the petitioner shall be permitted to retire from service and consequentially, he shall be entitled to claim all service benefits.”

8.When this order was not complied with, the petitioner had filed Cont.P(MD).No.1364 of 2021. This Court in its order dated 21.10.2021 in paragraph Nos. 8 to 12 has held as follows:

“8.As has been rightly pointed out by the learned counsel appearing for the petitioner, the respondent admittedly has not



complied with the order passed by this Court, by completing the enquiry within the six month period. No extension application also has been filed by the respondent for seeking any extension for completion of the enquiry beyond the six months period for whatever reasons, including the administrative reasons as stated now.

9.It is the settled proposition that, when a strict time limit has been given by a Court to complete a particular thing, the parties concerned has to comply with the order within the time given by this Court, otherwise, if for any unforeseen reason including administrative reasons, it could not be complied within the time, extension of time should have been asked for by filing separate application. Therefore, the respondent cannot take it for granted and complete the enquiry, according to their own time constrain, unmindful of the direction or time limit prescribed by this Court.

10.Strictly speaking, the disciplinary proceedings initiated against the petitioner shall not have any effect, if the disciplinary proceedings is not completed within six months period, as has been observed in the order referred to above.

11.It is also to be noted that, as against the said order, no appeal has been filed. Therefore, the said observations and findings given by this Court still holds good. Hence, in the eye of law, there could be no disciplinary proceedings beyond six months period and therefore, the petitioner would be entitled to get retirement benefits, after getting retirement peacefully.

12.However, now an order of penalty has been passed



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against the petitioner, which is the subject matter before this Court in another Writ Petition i.e., W.P.(MD)No.24245 of 2019, initiated by the petitioner. Therefore, by raising all these grounds, the petitioner can very well pursue this matter before the Writ Court in the said writ petition, where the aforestated observations and grounds can be made useful for the petitioner to agitate the issue successfully.

9. There is a specific direction by this Court in WP(MD).No.16756 of 2015 to the respondent to complete the disciplinary proceedings within a period of six months. It has also been pointed out that if the direction is not complied with, it shall be presumed that there are no disciplinary proceedings in the eye of law as against the petitioner and the petitioner would be entitled to all the benefits.

10. Again in the contempt proceedings, this Court in paragraph No.10 has held that the disciplinary proceedings as against the petitioner shall not have any effect, in view of the fact that they have not been completed within a period of six months. In paragraph No.11, the Hon'ble Court was pleased to find that the said observation still holds good. Only in view of pendency of WP(MD).No.24245 of 2019, the contempt proceedings were closed. Therefore, it is clear that if the disciplinary proceedings are not completed within a period of six months, they become invalid in the eye of law and the



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petitioner gets exonerated from all the charges. The impugned order imposing punishment has been passed only on 19.04.2022 which is 3 ½ years after the time limit fixed by this Court. Hence, the order impugned in the writ petition is null and void and it should be presumed that the petitioner has been exonerated from all the charges.

11.In view of the above said deliberations, the order impugned in the writ petition is set aside and the writ petition stands allowed. The respondents are directed to release all the retirement benefits within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

18.12.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

To

1.The Director General of Police
Office of the Director General of Police
Dr.Radhakrishnan Salai
Chennai

2.The Superintendent of Police
Office of the Superintendent of Police
Thanjavur District



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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