



W.P.(MD).No.24035 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.24035 of 2016
and
W.M.P.(MD).No.17334 of 2016**

Selvaraj

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Karur District.
- 4.The District Educational Officer,
Karur District.

... 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 herein to disburse the retirement benefits, arrears of salary, revised salary,



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arrears of pension, revised pension and all other service benefits together with interest payable thereon from 01.08.2010 for delayed payment, within a reasonable time as may be fixed by this Court.

For Petitioner : No Appearance

For Respondents : Mr.M.Ramesh,
Government Advocate.

ORDER

This Writ Petition is filed for Mandamus, directing the respondents herein to disburse the retirement benefits, arrears of salary, revised salary, arrears of pension, revised pension and all other service benefits together with interest payable thereon from 01.08.2010 for delayed payment.

2. The petitioner was appointed as B.T.Assistant (Science) on 07.04.1980 and thereafter, he was promoted as Headmaster on 26.07.2006. The petitioner was suspended pursuant to a criminal complaint dated 10.10.2005 in Crime No.715 of 2005 on the file of Kulithalai Police Station, Karur. The allegations against the petitioner is that he was running a teacher training Institute in the name of SS Teacher Training Centre without recognition and was receiving fees to the tune of Rs.45,000/- and has not issued any receipts for the same. The



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contention of the petitioner is that the criminal case was pending for long time and in the meantime the petitioner is entitled to subsistence allowance. But the respondents had not paid full subsistence allowances. However, the petitioner was initially paid 50% and subsequently 75% of subsistence allowances. The contention of the petitioner is that the respondents have kept the petitioner in the suspension itself for more than 5 years from 2005 till the date of superannuation i.e. on 31.07.2010. Further, the respondents have neither retained the petitioner in service nor passed any consequential order allowing the petitioner to retire from service. Therefore, as per Rule Fundamental Rules 56(1)(c), when the petitioner was not retained in service, it would be deemed to be allowed to retire from service on the date of attaining superannuation that is on 31.07.2010. Therefore, the petitioner is claiming terminal benefits that is applicable to the service.

3. The respondents have filed counter stating that the petitioner was placed under suspension on 05.03.2007 and the suspension order was passed based on the criminal case. Thereafter, a charge memo was issued under 17(b). The domestic enquiry was initiated under proceedings dated 26.07.2010. In the said proceedings, the petitioner was not permitted to retire from service and



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was kept under suspension because of the criminal case in C.C.No.91 of 2010 in Crime No.715 of 2005 under Sections 417 and 420 IPC which was still pending. Hence, the petitioner was not permitted to retire from service and was kept under suspension till date as per Fundamental Rule 56(1)(c). Therefore, the petitioner cannot seek any retirement benefits. Since the criminal proceedings are pending, the respondents were not in a position to conduct disciplinary proceedings against the petitioner. After completion of the criminal proceedings, the disciplinary proceedings would be completed.

4. Pending Writ Petition, the criminal case was ended in acquittal vide Judgment dated 24.06.2019. Thereafter, the respondents have proceeded with the disciplinary proceedings and imposed the punishment of dismissal from service. The petitioner has preferred appeal before the first respondent. The first respondent has also confirmed the same and passed G.O.(1D).No.75 School Education Department dated 23.05.2020 against which the petitioner preferred Review Application that was also considered by the first respondent in G.O.(1D).No.3 dated 10.01.2023 by confirming the dismissal order. The petitioner ought to challenge the review order before this Court. Therefore, at present the claim of the petitioner cannot be considered.



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5. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Secretary to Government,
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- 2.The Director of School Education,
Chennai – 600 006.
- 3.The Chief Educational Officer,
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S.SRIMATHY, J.

Nsr

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