



W.P.No.6794 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

**W.P.No.6794 of 2021
and W.M.P.No.7351 of 2021**

M.v.Anjaniah

S/o. M.V.Thippaiah

...Petitioner

Vs.

- 1.The Union of India,
Rep by the Director General,
Central Industrial Security Force,
Ministry of Home Affairs,
Block -13, CGC's complex,
Lodhi Road,
New Delhi
- 2.The Inspector General,
Central Industrial Security Force,
South Sector, War Memorial,
Chennai-600 006.
- 3.The Deputy Inspector General,
Central Industrial Security Force,
N.L.C.Neyveli



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4.The Senior Commandant,
Central Industrial Security Force,
N.L.C.Neyveli

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus praying to call for the premature retirement order Letter No.E.36017/CISF/NLC Neyveli/Disciplinary Section/18/5669 dated 09.10.2018 passed by the Senior Commandant the 4th respondent herein and quash the same as illegal, improper, arbitrary, unreasonable and thereby direct the 4th respondent to reinstate the petitioner in to service senior head constable and pay back all service and monetary benefits.

For Petitioner : Mr.Aravind Sakthivelu (VC)
for D.Charles Muthu Shanthan
For Respondents : Mr.A.Kumaraguru for R1 to R4

ORDER

The petitioner herein who was appointed as Constable in the Central Industrial Security Force (C.I.S.F) on 05.07.1988 made a request for voluntarily retirement more than occasion i.e., 30 years of service. Further, the said request was negatived by the respondent on the ground



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that the same was not in consonance with the Rules. It is thereafter through impugned proceedings dated 09.10.2018, the petitioner was permitted to retire from service under Rule 48 of Civil Service (Pension Rules 1972) with three months notice pay. Aggrieved by the said proceedings dated 09.10.2018, the petitioner filed an appeal before the 2nd respondent herein on 10.10.2018 seeking re-instatement in to the service. However, the said appeal was considered and the petitioner was informed through proceedings dated 31.10.2018 that the Competent Authority to consider the appeal is ADG/CISF/Heat Quarters New Delhi and the petitioner was required to submit the appeal before the said Authority. However, the petitioner instead of filing an appeal in terms of the said proceedings dated 31.10.2018, submitted his representation dated 06.11.2018 before the 3rd respondent requesting for the release of the benefits for which he is entitled to in terms of the impugned order. Accordingly, the petitioner was paid the benefits for which he was entitled, under the impugned order. Thereafter, the petitioner approached this Court in the year 2021 by filing the present writ petition challenging the proceedings dated 09.10.2018.



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2.Though an elaborate affidavit is filed in support of the writ petition, the petitioner failed to state about the request submitted by him on 06.11.2018 requesting for release of his pensionary benefit and also receipt of such pensionary benefit.

3.The respondent filed counter affidavit stating that the petitioner having filed the appeal against the order dated 09.10.2018, failed to pursue the same further by filing the said appeal before the Competent Authority and made a specific request for releasing all pensionary benefits through representation dated 06.11.2018. The copy of the said representation dated 06.11.2018 is also placed before this Court. It is not in dispute that the petitioner was paid the benefits for which the petitioner is entitled under the impugned proceedings dated 09.10.2018.

4.However, the learned counsel for the petitioner contended that the respondent failed to follow the procedure that is required to be followed before issuing proceedings under Rule 48 of Central Civil



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Services (Pension Rules) 1972, especially the procedure provided under office memorandum No.25013/01/2013 ESTT.A-IV dated 11.09.2015, and also further contended that the respondent had not issued any notice before issuing the impugned order. This Court has thoroughly gone through the said memorandum dated 11.09.2015 as well as Rule 48 of Rule 1972. Rule 48 of the Rule 1972 specifically confers the powers upon the Competent Authority to retire an employee on completion of 30 years of service either by putting him on notice or by paying notice pay for three months. On perusal of the impugned order it is evident that the petitioner was granted the benefit of three months pay in terms of Rule 48. Other than the said three months notice or notice pay, there is no opportunity that is contemplated under the said Rule.

5.Then coming to the procedure provided under office memo dated 11.09.2015 is concerned, the same only provides certain procedure in the matter of exercising power under Rule 48 under Rule 1972. Even if the said procedure is violated, the same does not confer any right on the petitioner. But in fact, the said procedure is expected to be followed



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before coming into a conclusion to exercise the discretion under Rule 48 of Rule 1972. Even if the said procedure, especially the procedure provided under paragraph No. 1 (a) of the said Office Memorandum was not followed, the same does not confer any right on the petitioner, nor would adversely affect or otherwise cause any prejudice to the petitioner. Added to this, the petitioner, having made a specific request for releasing all his benefits pursuant to the impugned order and having received the same in the year 2018, has approached this Court only in the year 2019 challenging the impugned proceedings dated 09.10.2018 without explaining any reason for belatedly approaching this court, nor disclosed about the receipt of all the benefits under the impugned order.

6. In the light of the above, this Court is of the considered view that the petitioner is not entitled for any relief in the writ petition and the same is accordingly dismissed. In case the petitioner is having any grievance with regard to the amount if any due to be paid to the petitioner pursuant to the impugned order, it is always open to the petitioner to take appropriate steps in accordance with law.



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7. Accordingly, the writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To

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MUMMINENI SUDHEER KUMAR, J.

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