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W.P.No.11552 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.11552 of 2021

C.Sudhakar

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep by its Home Secretary,
Home (Police-III) Department,
The Secretariat, Chennai - 09.
- 2.The Additional Director General of Police,
Armed Police,
Kilpauk, Chennai - 10.
- 3.The Commandant,
Tamil Nadu Special Police (VII) Battalion,
Pochampalli,
Krishnagiri District - 635 206.
- 4.The Accountant General (A&E),
361, Anna Salai, Teynampet,
Chennai - 18.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the gratuity amount due to the petitioner as even recommended by the 2nd respondent dated 07.12.2018 to the third respondent in such behalf



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besides fixing his regular pension and pay the same to him within a time frame as may be fixed by this Court.

For Petitioner : Mr.K.Ravi Anantha Padmanaban,
Senior Counsel for
Ms.Rajalakshmi, P.

For Respondents :Mr.M.Rajendran, AGP

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents to release the gratuity amount due to the petitioner as recommended by the 2nd respondent dated 07.12.2018 to the third respondent besides fixing his regular pension and pay the same to him within a time frame as may be fixed by this Court.

2. Heard Mr.K.Ravi Anantha Padmanaban, learned Senior Counsel for the petitioner and Mr.M.Rajendran, learned Additional Government Pleader for the respondents.

3. The petitioner who was given with the penalty of compulsory retirement for the disciplinary proceedings initiated against him in P.R.No.20/2018 has filed this Writ Petition with the above prayer.



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4. In the counter filed by the third respondent, it is seen that the third respondent is concerned about some other disciplinary proceedings that has been pending against the petitioner in P.R.No.20/2018.

5. According to the petitioner, the said proceedings have been completed and the charges against him were not proved against him.

6. However, the learned Additional Government Pleader for the respondents submitted that in respect of the charges levelled against the petitioner, the disciplinary action and some criminal proceedings are pending and it is not yet over.

7. So far as the criminal proceedings are concerned, in the event of the criminal offence are proved, he will be punished in accordance with the criminal law. As regards the disciplinary proceedings, once the disciplinary proceedings are completed, the charges against the petitioner are not proved and the same is accepted, there is no necessity for the



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respondents to withhold any of the terminal benefits which the petitioner is entitled consequent to his compulsory retirement.

8. The petitioner did not challenge the penalty of compulsory retirement. His limited prayer is to release his gratuity and other monetary benefits for which he is entitled. The attention of this Court was drawn to the letter of the Commandant, 7th Battalion, Krishnagiri District dated 29.06.2018, wherein, it is appraised that as per Rule 69 of the Tamil Nadu Pension Rules, 1978, the gratuity can be paid even if some disciplinary proceedings are pending or any pending action for recovery of loss caused by the employee to the Department. For the sake of clarity, Rule 69 of the Act is extracted hereunder:

"Provisional Pension where departmental of judicial proceedings may be pending:-

1.a. In respect of a Government Servant referred to Sub rule 4 of o, the head of office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of Government Servant.



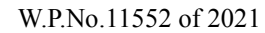
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1.b. No gratuity shall be paid to the Government Servant until the conclusion of the departmental or judicial proceedings (or enquiry by the director of vigilance and anti corruption) and issued of final orders there on.

(provided that no such gratuity shall be withheld in respect of a Government Servant who has been permitted to retire without prejudice to the departmental or judicial proceedings pending against him where such departmental or judicial proceedings are only for administrative lapses not involving any pecuniary loss to the Government).

(provided further that where a Government Servant against whom a departmental or judicial proceedings involving pecuniary loss to Government is pending is permitted to retire without prejudice to such departmental or judicial proceedings, a portion of gratuity may be authorized after deducting the maximum computed financial loss to the Government for which the Government Servant is held liable along with unrecovered Government dues if any of such Government Servant with interest)."

9. The rule makes it clear that gratuity of an employee shall not be



10. In the result, this Writ Petition is allowed and the respondents are directed to release the gratuity amount due to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To

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R.N.MANJULA, J.



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