



WA.No.1670 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE Mr.JUSTICE **S.M.SUBRAMANIAM**

AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WA.No.1670 of 2021
and
CMP.No.10554 of 2021

R.Thangam

... Appellant

Vs.

1. The Principal Secretary to Government,
Home Department (Police-IV),
Fort St. George, Chennai-600 009.
2. The Director General of Police,
Mylapore, Chennai-600 004.
3. The Commissioner of Police,
Vepery, Chennai-600 007.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of The Letters Patent, praying to set aside the order dated 01.07.2020 made in WP.No.2206 of 2016 and allow this writ appeal.

For Appellant : Mr.V.Raghupathi

For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.J.Daniel, GA for R1 to R3



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JUDGMENT

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[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The writ order dated 01.07.2020 passed in WP.No.2206 of 2016 is under challenge in the present writ appeal. The unsuccessful writ petitioner is the appellant before us. He was holding the post of Sub Inspector of Police. A criminal case has been registered against the appellant in SC.No.155 of 2003 for the offence under Sections 304(II), 477A and 201 of IPC.

2. It is not in dispute between the parties that the criminal case against the appellant ended with conviction of fine of Rs.52,000/-. The appellant paid the fine amount. It is not made clear about the Criminal Appeal filed. The learned Additional Advocate General Mr.P.Kumaresan would submit that A1 and A2 preferred Criminal Appeal, which was subsequently, withdrawn by the appellant and the other delinquent Inspector of Police. Mr.V.Raghupathi, learned counsel appearing on behalf of the appellant would mainly contend that there was a long delay in instituting the proceeding under the Tamil Nadu Pension Rules, 1978. Beyond the period of 4 years, actions are impermissible under the Rules. Thus, the final order passed imposing penalty of withdrawal of pension in full is untenable. To substantiate the said claim,



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Mr.V.Raghupathi, learned counsel for the appellant has invited our attention to the dates and events submitted by the appellant, wherein the appellant was allowed to retire in the year 2010 with effect from 2000, since the actual date of superannuation of the appellant was 31.03.2000. Thereafter, after 2010, no action was initiated and the final order of penalty under the Pension Rules was imposed in the year 2015 by the Government. Thus, the punishment is violative of Rule 9(b)(2)(a)(ii) of Tamil Nadu Pension Rules.

3. The other facts between the parties are not disputed. The learned Additional Advocate General Mr.P.Kumaresan would contend that there was no delay. The appellant was kept under suspension till the year 2010. Thereafter, he was relieved from the suspension order, without prejudice to the departmental disciplinary proceedings initiated based on the conviction of the Criminal Court. The final order in the disciplinary proceedings was issued in the year 2015. Thus, there was no delay, since the proceedings were continuing till the Government took a decision to impose a penalty under the Tamil Nadu Pension Rules.

4. Mr.V.Raghupathi, learned counsel would raise another ground that the co-delinquent one Mr.P.Balasubramanian (Retired), Inspector of Police



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was exonerated from the disciplinary proceedings. Therefore, the appellant alone was discriminated. In this regard, Mr.P.Kumaresan, learned Additional Advocate General would reply by producing the Government Order in G.O(2D).No.78, Home (Police-IV) Department dated 01.03.2011, wherein the minutes recorded by the Government would reveal that it was proposed to impose the punishment of withdrawal of pension in full against Mr.P.Balasubramanian. During the pendency of the proposal to impose punishment under the Tamil Nadu Pension Rules, the Authorities received an information that Mr.P.Balasubramanian expired on 12.07.2005. Thus, the proceedings got abated and consequently, it was dropped. Therefore, the case of the appellant cannot be compared with the case of Mr.P.Balasubramanian, Inspector of Police (Retired) and died on 12.07.2005.

5. Regarding the ground of delay, the order dated 07.12.2010 issued by the Commissioner of Police, Chennai reveals that Mr.R.Thangam/appellant, the Sub Inspector of Police, Control Room formerly V-3 Police Station, who was placed under suspension on 31.03.2000 vide CPO No.488/2000 dated 28.03.2000 due to pendency of departmental action under 3(b) in PR No.55/2000 is ordered to be released from suspension vide G.O (2D) No.440,



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Home (Pol.IV) Department, dated 03.09.2010 without prejudice to the departmental action in PR No.55/2000 pending against him and also taking into account his suspension from service is not warranted for any other departmental disciplinary case. Therefore, the Government Order issued in G.O (2D) No.440, Home (Pol.IV) Department, dated 03.09.2010 is only to release the appellant from suspension, however without prejudice to the departmental action initiated in PR No.55/2000. Therefore, the departmental disciplinary proceedings were pending even after 2010. The departmental disciplinary proceedings continued by issuing show cause notice and the materials available on record were considered by the Government. The Government finally passed orders in G.O (2D) No.308, Home (Police-IV) Department dated 10.09.2015 imposing the punishment of “withdrawal of pension in full” on the appellant in PR No.55/2000. Therefore, there is no delay in initiation of departmental disciplinary proceedings. Rule 9(b)(2)(a)(ii) of the Tamil Nadu Pension Rules stipulates that no disciplinary proceedings shall be initiated in respect of any event which took place more than 4 years before such institution. However, in the present case, the criminal case was pending even after the actual date of superannuation of the appellant and the departmental disciplinary proceedings initiated in PR No.55/2000 was also



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pending till such time, the final order passed by the Government in G.O (2D) No.308 dated 10.09.2015. Thus, the said Rule would have no application in respect of the factual matrix of the case on hand.

6. Rule 8 of the Tamil Nadu Pension Rules contemplates that a penalty of withdrawal of pension in full can be imposed, if the pensioner is convicted of a serious crime or found guilty of great misconduct. In the present case, the appellant admittedly has been convicted in a criminal case of serious nature. The undisputed factual aspects were considered by the learned Single Judge elaborately, which deserves no further consideration from the hands of this Court.

7. Mr.V.Raghupathi, learned counsel would submit that the eligible monetary benefits are yet to be settled. In this regard, the learned Additional Advocate General would produce the proceedings of the Deputy Commissioner of Police, Administration I/C, Vepery, Chennai dated 09.02.2016, which would indicate that the Terminal Leave Salary will be drawn and paid to the appellant separately. If the same has not been paid, the respondents are directed to pay the same, if any, without causing any further



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delay, within a period of four(4) weeks from the date of receipt of a copy of this judgement.

8. For all the reasons stated above, we are not inclined to entertain the Appeal. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
01.07.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes

To

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Home Department (Police-IV),
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2. The Director General of Police,
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