



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

WEB COPY

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.35064 of 2020

P.Ramaraj

... Petitioner

Vs.

1.The Registrar General,
High Court of Madras,
Chennai – 104.

2.The Government of Tamilnadu,
Represented by its Secretary,
Home (Cts.IA) Department,
Secretariat, Chennai – 600 009.

3.The Accountant General (A & E),
O/o Accountant General (A&E), Tamil Nadu,
361 Anna Salai,
Teynampet,
Chennai – 600 018.

4.The Principal District and Sessions Judge,
Cuddalore.
(R-4 *suo motu* impleaded *vide* order dated
19.02.2024 in W.P.No.35064 of 2021
by SMSJ & KRSJ)

... Respondents



W.P.No.35064 of 2023

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, to direct the 1st and 2nd respondents to consider the petitioner's representations dated 19.12.2007 & 23.11.2023 and to settle all the retirement benefits and further to direct the respondents to pay pension with arrears to the petitioner.

For Petitioner : Mr.P.Vijendran
For Respondents : Mr.Karthik Ranganathan

ORDER

(Order of the Court delivered by S.M.SUBRAMANIAM,J.)

The writ on hand has been instituted to direct the respondents 1 and 2 to consider the petitioner's representation dated 19.12.2007 and 23.11.2023 and to settle all the retirement benefits and further to direct the respondents to pay pension with arrears to the petitioner.

2. The facts are not in dispute. The petitioner was initially appointed as Judicial Magistrate on 02.03.1998. He was placed under suspension on initiation departmental disciplinary proceedings *vide*



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proceedings dated 25.01.2006. During the course of regular review on attaining the age of 56 years, the High Court placed the materials and consequently a decision was taken by the Competent Authority to compulsorily retire the writ petitioner by invoking F.R.56(2) on public interest, considering the fact that he was holding the post of Judge. Due procedures were followed. The petitioner challenged the order of compulsory retirement, which was confirmed by the Hon'ble Supreme Court of India. By way of second round of litigation, the present writ petition is filed, seeking the retirement and pensionary benefits under the Tamil Nadu Pension Rules, 1978.

3. Mr.P.Vijendran, learned Counsel for the petitioner would submit that the compulsory retirement by way of punishment would attract Rule 39 of the Tamil Nadu Pension Rules, 1978. Rule 39(1) contemplates that “*A Government Servant compulsorily retired from service as a penalty may be granted by the authority competent to impose such penalty or gratuity, or both at the rate not less than two-thirds and nor more than full compensation pension or gratuity or both admissible to him on the date of his compulsorily retirement.*”



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4. Relying on the said Rule, Mr.P.Vijendran would contend that the petitioner is entitled to receive all the terminal and retirement benefits due to him based on compulsory retirement under Rule 39 of the Tamil Nadu Pension Rules.

5. It is not in dispute that the petitioner had not completed 10 years of services under the Tamil nadu Pension Rules. Ten years of minimum service is the qualifying services for the purpose of grant of pension under the Tamilnadu Pension Rules, 1978. An employee who has not completed 10 years of minimum service is not entitled to get pensionary benefits under the Tamil nadu Pension Rules, 1978. However, he would be entitled to get his own contributions if any, made during the course of his services in the Judicial Department.

6. The order of compulsory retirement issued was confirmed by the Hon'ble Supreme Court of India. Further, the petitioner had not completed the minimum services of 10 years under the Tamil nadu Pension Rules for the



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purpose of claiming the benefit under Rule 39 of the Tamil nadu Pension Rules, 1978. Therefore, the respondents are directed to ensure that the contributions if any made by the petitioner alone is settled as per the Rules and by following the procedures. However, the petitioner is not entitled to claim any benefit under the Tamil Nadu Pension Rules, 1978. In view of the fact, that the learned Principal District and Sessions Judge, Cuddalore is the disbursing Authority in the present case, the learned Principal and District and Sessions Judge, Cuddalore has been *suo motu* impleaded and if the eligible dues are not settled, it must be settled without causing any undue delay within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands dismissed. No costs.

[S.M.S.J.] [K.R.S.J.]
19.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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