BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.7618 of 2024
and
W.M.P(MD)Nos.6965 to 6967 of 2024

P.Venkatachalam ... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Principal Secretary,
Commercial Taxes and Registration (H) Department,
Secretariat, Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600 028.

3.The Principal Accountant General,
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

4.The Treasury Officer,
O/o the Treasury Officer,
District Treasury,
Thiruchirappalli. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceeding in Na.Ka.No.14917/2022/G1 dated 28.02.2023 and the consequential impugned proceedings in Na.Ka.No. 14917/2022/G1, dated 31.08.2023 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the respondent No.1 and 3 to disburse the pension benefits to the petitioner along with all the consequential benefits within the time stipulated by this Court.

For Petitioner	:	Mr.T.Aswin Raja Simman
For R1, R2 & R4	:	Mr.M.Siddharthan Additional Government Pleader
For R3	:	Mr.P.Gunasekaran Standing Counsel

ORDER

The present writ petitions have been filed to call for the records pertaining to the impugned proceeding in Na.Ka.No.14917/2022/G1 dated 28.02.2023 and the consequential impugned proceedings in Na.Ka.No. 14917/2022/G1, dated 31.08.2023 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the respondent No.1 and 3 to disburse the pension benefits to the petitioner along with all the consequential benefits.

2. The petitioner has joined in the Registration department in the post of Record Clerk through employment exchange on 01.04.1974. However, he was promoted to the post of Junior Assistant in the year 1982 and thereafter, promoted to the post of Sub Registrar in the year 2001 and then promoted to the post of District Registrar Mayiladuthurai on 18.07.2010. Whileso, he was visited with an order of suspension on 27.12.2010 following a surprise check conducted on 27.05.2010 by the Department of Vigilance and Anti-Corruption while he was rendering service in the post of Sub Registrar at Thiruvarambur, Thiruchirappalli District. An enquiry was initiated against the petitioner for possession of some unaccounted money along with other Sub Registrars for employment of private individuals at the Sub Registrar Office. Hence, on 31.05.2010 when he attained the age of superannuation, he was not permitted to retire from service and his suspension was extended further. In the meanwhile, on 09.04.2012, he was issued with a charge memo under rule 17 (b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules framing two charges based on the said incident. The petitioner submitted a detailed objection. However, without considering the same, an Enquiry Officer was appointed by the disciplinary authority and on 24.08.2012, enquiry was also conducted, in which

the petitioner duly participated. Subsequently, new Enquiry Officer was appointed on 08.11.2023 and further, again on 28.05.2014, yet another Enquiry Officer was appointed.

3. On 29.12.2016, the Enquiry Officer reported that charge no.1 as against the petitioner has been disproved and charge no.2 is proved. Following which, the punishment of permanent cut of 1/3rd in his eligible pension came to be inflicted on the petitioner. Thereafter, vide G.O(D)No.159, dated 30.08.2019, he was permitted to retire from service. The petitioner made a representation on 23.10.2019 to the 1st respondent requesting not to impose grave punishment due to his pathetic situation. Without considering the petitioner's representation, the 1st respondent issued the order of punishment of permanent cut of 1/3rd in the pension of the petitioner through G.O(D)No.77, dated 29.03.2022. When the petitioner approached the respondents seeking to disburse the pension to which he is entitled to, he was issued with a impugned proceedings of the 4th respondent and the consequential proceedings seeking explanation with regard to excess payment of Rs.6,01,423/- for the period from 01.01.2011 to 29.03.2022,, only after clarifying the same, pension will be provided to him. The 4th respondent while passing the impugned proceedings,

had applied the order of punishment of 1/3rd permanent cut in his pension mechanically from the date of his retirement without considering the fact that the order of punishment came to be issued only on 29.03.2022 and that the punishment cannot be inflicted retrospectively. Whileso, the 4th respondent has sought for clarification vide proceedings, dated 28.02.2023. However, the said clarification has not been given by the 3rd respondent so far. Hence, this writ petition came to be filed.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. Considering the fact that the petitioner is 72 years old, this Court hereby direct the 3rd respondent to issue clarification forthwith on receipt of a copy of this order.

6. With the above said observations, this Writ Petition stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2024

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

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To

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2.The Inspector General of Registration,
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L.VICTORIA GOWRI, J.

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