



W.P.(MD).No.13065 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13065 of 2024

Chinnathevar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Home (Police IV) Department,
Secretariat,
Chennai – 600 009.

2.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.

3.The Superintendent of Police,
O/o. the Superintendent of Police,
Dindigul,
Dindigul District.

4.The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Dindigul,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the third respondent proceedings D.O.578/2013 Rc.No.F1/18242/198/2012 dated 29.04.2013 and quash the same further



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directing the respondents to allow the petitioner's retirement on 30.04.2013 including the service benefits and pensionary benefits and other monetary benefits with 18% interest to the petitioner within the time frame as fixed by this Court.

For Petitioner : Mr.A.P.Muthupandian

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard Mr.A.P.Muthupandian, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. This Writ Petition has been filed seeking to quash the order of the third respondent dated 29.04.2013 and further directing the respondents to allow the petitioner's retirement on 30.04.2013 including the service benefits and pensionary benefits and other monetary benefits with 18% interest to the petitioner.



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4. Mr.A.P.Muthupandian, learned counsel for the petitioner submitted that the co-delinquent had already been given with the terminal benefits in pursuant to the order dated 30.04.2014 passed in W.P(MD)No.495 of 2013. The above Writ Petition had been filed by one Veerathevar who is also a co-delinquent challenging the suspension order passed against him on the eve of his retirement and quashed the same with the consequential direction to the authorities concerned to disburse his retirement benefits. After making detailed discussion about the merits of the issue, the learned Single Judge has passed an order dated 30.04.2014 allowing the Writ Petition by holding as under:

“14. Further, the lethargic attitude of the respondents could be seen by the following dates and events. By order dated 24.7.2009, this Court has granted six months time to conclude the disciplinary proceedings in respect of PR No.8/2007. But the respondents have not taken steps within the time to comply with the order. They did not file any petition seeking extension. The petitioner after waiting for nearly three years has filed a contempt petition in Cont.P.No. 357 of 26 2012. Only in that proceedings a counter affidavit was filed by stating that the Inspector General of Police has forwarded the PR files to the Director General of Police on 3.3.2011 and 8.3.2011



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and the Director General of Police has addressed the Government on 30.5.2012 requesting to issue early orders. The respondents should have atleast utilised the opportunity after obtaining a time limit fixed by this court in the above said contempt proceedings. But they have not chosen to pass orders on or before 31.12.2012 as directed by this Court. Therefore, it is crystal clear that the respondents have not only complied with the order passed by this Court by strictly adhering to the time limit fixed therein and also have shown their lethargic attitude in not concluding the disciplinary proceedings initiated against the petitioner. The respondents have not chosen to seek for extension of time even after filing of this writ petition by the petitioner. This shows that the respondents are not really interested to proceed against the petitioner any more and they want the proceedings to get lapsed on its own. Further, it could be seen that the Inspector General of Police also wanted to drop the proceedings in respect of all 11 PR files as is evident from the counter filed in the above said contempt petition.

15. The learned Senior Counsel for the petitioner relied on the 27 decision reported in 2008 (3) MLJ 469 (Chairman, Union Bank of India and others Vs.All India Union Bank Officers' Federation and others) and the unreported decision of the learned single Judge made in W.P.No.16735 of 2012 dated 27.9.2013 to contend that the opinion of the Vigilance Commission is not mandatory for



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concluding the disciplinary proceedings as it is not binding on the disciplinary authority. As I am convinced that the impugned proceedings initiated against the petitioner cannot be proceeded with in view of the lapse of time, I am not inclined to go into that issue and consequently, those decisions are not taken into consideration to the present facts and circumstances of the case.

16. Accordingly, the writ petition is allowed and the impugned orders are set aside. Consequently, the respondents are directed to extend all the retirement benefits to the petitioner within a period of twelve weeks from the date of receipt of copy of this order. The connected M.Ps are closed. No costs.

5. As per the submission made by Mr.N.Ramesh Arumugam, learned Government Advocate on instructions, it is learnt that the Government has challenged the above order by way of filing a Writ Appeal in W.A.(MD)No.1463 of 2015. However, the said Writ Appeal was dismissed as withdrawn by order dated 12.04.2022 with a direction to the Government to pay all the retirement benefits to the employee involved in the said proceedings along with the interest at the rate of 6% from the date of his retirement till the date of payment. The above order has been complied by the Government through its proceedings dated



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17.10.2022 and the relevant portion of the above order is extracted

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“9. The Government have therefore carefully examined the case in detail. After examination, the Government have decided to implement the order of the Hon'ble Madurai Bench of Madras High Court, dated 12.04.2022 in W.A.(MD)No.1463 of 2015 and M.P. (MD)No.2 of 2015 filed by the Government against W.P.(MD)No.495 of 2013 filed by Thiru.C.Veerathevar as a “Special Case” under condition that this case should not be quoted as a precedent in future cases and to allow Thiru.Veerathevar, formerly Head Constable 695, now Sub-Inspector of Police (under suspension and not allowed to retire from service), to retire from service with effect from 30.06.2011 AN subject to the outcome of the criminal case in PRC.No.09/2021 pending before the District Munsif cum Judicial Magistrate, Athoor (PRC.No.02/2010 of CJM Court, Dindigul) and to pay all the retirement benefits with interest at the rate of 6% per annum from the date of retirement till the date of payment to him by relaxing proviso 4(a) of Rules 45-A(1) of the Tamil Nadu Pension Rules, 1978 for payment of interest on Death Cum Retirement Gratuity in favour of him.



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10. Accordingly, in compliance with the orders of the Hon'ble Madurai Bench of Madras High Court, dated 12.04.2022 in W.A.(MD)No.1463 of 2015 and M.P.(MD)No.2 of 2015, the Government direct the Director General of Police to take necessary action to allow Thiru.Veerathevar, formerly Head Constable 695, now Sub-Inspector of Police (under suspension and not allowed to retire from service), to retire from service with effect from 30.06.2011 AN subject to the outcome of the criminal case in PRC.No.09/2021 pending before the District Munsif Cum Judicial Magistrate, Athoor (PRC.No.02/2010 of CJM Court, Dindigul) and to pay all his retirement benefits with interest at the rate of 6% per annum from the date of his retirement till the date of payment to him by relaxing proviso 4(a) of the Rule 45-A(1) of the Tamil Nadu Pension Rule, 1978 for payment of interest on Death Cum Retirement Gratuity in favour of him as a special case and this case should not be quoted as a precedent in future cases.”

6. Since a similarly placed person who also involved in the similar occurrence and the co-applicant with the petitioner was allowed to retire by considering his case as a special one, the same benefits should be extended to the petitioner also.



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7. However, the petitioner has chosen to file this Writ Petition after a long delay. Hence, the petitioner is entitled to the advantage of interest on the retiral benefits is only on par with the co-delinquent. As the petitioner was placed under suspension on the date of his retirement, there is no question of reinstating him subsequent to setting aside the order of suspension.

8. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned proceedings in D.O.578/2013 Rc.No.F1/18242/198/2012 dated 29.04.2013 is set aside and the respondents are directed to extend all the retirement benefits to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order, with interest at the rate of 6% per annum from the date of his retirement that is 30.04.2013. No costs.

20.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
Home (Police IV) Department,
Secretariat,
Chennai – 600 009.
- 2.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.
- 3.The Superintendent of Police,
O/o. the Superintendent of Police,
Dindigul,
Dindigul District.
- 4.The Revenue Divisional Officer,
O/o.the Revenue Divisional Office,
Dindigul,
Dindigul District.



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R.N.MANJULA, J.

Nsr

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