



W.P.(MD) No.16945 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.16945 of 2020

and

W.M.P.(MD) No.14178 of 2020

P.Murugesan

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home (Pol.2) Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Principal Secretary to the Government,
Secretariat, Fort St. George,
Chennai-600 009.

3.The Director General of Police,
Tamil Nadu,
Chennai-04.

4.The Superintendent of Police,
Dindigul District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue
Writ of Certiorarified Mandamus, calling for the records pertaining to the



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impugned order of the 1st respondent in G.O.(2D).No.199 Home (Pol.2) Department, dated 10.09.2020 and quash the same in respect of order of reduction of pension to the tune of Rs.4,726/- from petitioner's pension as a penalty under Rule 39(1) of Tamil Nadu Pension Rules, 1978.

For Petitioner : Mr.S.Ramasamy

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

This writ petition has been filed questioning the Government Order issued in G.O.(2D) No.199, Home (Pol.2) Department, dated 10.09.2020 imposing penalty of reduction of pension to the tune of Rs.4,726/- from the eligible pension of the petitioner, who was compulsorily retired from service as a Deputy Superintendent of Police in exercise of the power in Rule 39(1) of the Tamil Nadu Pension Rules, 1978.

2. Heard Sri S.Ramasamy, learned counsel for the petitioner and Sri D.Sasikumar, learned Government Advocate for the respondents.



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3. The brief and undisputed facts, that are relevant for the disposal of the writ petition, are as follows:

The petitioner herein, while working as Inspector of Police, Anaimalai Police Station, Coimbatore District, was subjected to disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, and he was not permitted to retire from service on attaining the age of superannuation and he was continued in service. The said disciplinary proceedings were concluded holding the petitioner guilty of the charges levelled against him and therefore, through G.O.2D.No.24. Home (Police 2) Department, dated 23.01.2017, punishment of compulsory retirement was imposed on the petitioner. The operative portion of the said Government Order reads as under:

“5. The Government have examined the case carefully and independently along with the connected records with the view of the Tamil Nadu Public Service Commission. After detailed examination, the Government have decided to accept the findings of the Inquiry Officer in which charge framed against the delinquent officer was held proved in view of the reasons



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stated therein. The charge framed against the delinquent officer is very severe in nature and the same was proved in the duly conducted inquiry. In view of the above reasons, the Government have decided to impose the punishment of “Compulsory Retirement” on Thiru. P.Murugesan, Deputy Superintendent of Police, (Under suspension and not allowed to retire from service), Palani Sub-Division, Dindigul District (formerly Inspector of Police, Anamalai Circle, Coimbatore District) in PR No.11/2011 for the proven charge against him by deviating the views of the Tamil Nadu Public Service Commission. Accordingly, the Government order that the punishment of “Compulsory Retirement” be imposed on Thiru.P.Murugesan, Deputy Superintendent of Police, (Under Suspension and not allowed to retire from service), Palani Sub-Division, Dindigul District, formerly Inspector of Police, Anamalai Circle, Coimbatore District for the proven charge. Further, consequent on the final order imposing “Compulsory Retirement”, orders regarding reduction in pension or DCRG or both under rule 39 of the Tamil Nadu Pension Rules will be issued separately.”



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4. The said order of punishment imposed on the petitioner has become final, as the petitioner has not taken any steps to challenge the said Government Order dated 23.01.2017.

5. From the perusal of the said order as extracted above, it is clear that consequent upon the imposition of punishment of compulsory retirement, orders regarding pension under Rule 39 of Tamil Nadu Pension Rules will be issued separately. Thereafter, the Government issued the impugned Government Order dated 10.09.2020 ordering for reduction of pension from the eligible pension of the petitioner. The said order is challenged by the petitioner in the present writ petition.

6. Learned counsel for the petitioner firstly contended that the 1st respondent failed to follow the principles of natural justice, as the petitioner was not afforded any opportunity or issued with any notice before passing the orders reducing the pension for which the petitioner is otherwise entitled to under Rule 6 of the Tamil Nadu Pension Rules. Secondly, it is contended that



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the reduction of pension imposed on the petitioner amounts to punishing the petitioner for second time. Thus, it is contended that the punishment of compulsory retirement was already imposed on the petitioner, he cannot be punished once again basing upon the very same charge.

7. On the other hand, learned Government Advocate contended that the opportunity, that is, contemplated in terms of proviso to Rule 6 of the Tamil Nadu Pension Rules has no application to the case on hand and further, submitted that the allegation of imposing punishment for the second time on the petitioner is totally misconceived. He also further contended that the impugned Government Order is only a consequential order passed by the 1st respondent consequent upon the orders of punishment of compulsory retirement imposed on the petitioner.

8. This Court has carefully considered the submissions made on either side and perused the entire material available on record.



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9. As already noted above, the Government Order in G.O.2D.No. 24, dated 23.01.2017 imposing the punishment of compulsory retirement on the petitioner has become final.

10. Rule 39 of the Tamil Nadu Pension Rules provides for payment of pension to an employee on compulsory retirement. Sub-rule (1) of Rule 39 entitles the competent authority to grant pension or gratuity or both at a rate not less than two-thirds and not more than full compensation pension or gratuity or both admissible to the Government servant on the date of his compulsory retirement.

11. Rule 6 of the Tamil Nadu Pension Rules relied upon by the learned counsel for the petitioner deals with “full pension subject to approved service”. The said Rule is applicable to the Government servants, who retired from service on attaining the age of superannuation in normal circumstances. But, that is not the case on hand. As the petitioner was compulsorily retired from service, the case on hand is governed by Rule 39 of the Tamil Nadu Pension Rules, but not Rule 6.



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12. As already noted above, the Government while imposing the punishment of compulsory retirement on the petitioner, categorically stated that appropriate orders would be passed in terms of Rule 39 of the Tamil Nadu Pension Rules. That apart, the said Government Order dated 23.01.2017 was also accepted by the petitioner. Thus, the Government, by issuing the impugned order, only exercised its power under Rule 39 of the Tamil Nadu Pension Rules and reduced the pension of the petitioner by deducting an amount of Rs.4,726/- from the eligible pension of the petitioner. Therefore, the impugned order is only a consequential order pursuant to the penalty of compulsory retirement imposed on the petitioner through G.O. 2D.No.24, dated 23.01.2017. As the petitioner has allowed the said Government Order to become final, the rest of the action taken by the 1st respondent by issuing the impugned Government Order is only a consequential action. Nothing is brought to the notice of this Court to say that the action of the 1st respondent in issuing the impugned Government Order is contrary to Rule 39 of the Tamil Nadu Pension Rules or otherwise. Thus, both the contentions raised by the learned counsel for the petitioner are



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totally unsustainable and accordingly, they are rejected. In the circumstances, this Court does not find any merit in the writ petition and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition, if any, shall stand closed.

12.02.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

ABR

To

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Home (Pol.2) Department,
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- 2.The Principal Secretary to the Government,
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MUMMINENI SUDHEER KUMAR, J.

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