



W.P.(MD)No.23506 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.10.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.23506 of 2016

and

W.P.(MD)No.16873 to 16875 of 2016

K.Nagarajan

... Petitioner

/Vs./

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Registration Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Inspector General Of Registration,
Santhome High Road,
Chennai - 600 028.

3.The District Registrar,
Dindigul District,
Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 2nd respondent in No.



W.P.(MD)No.23506 of 2016

56651/Aa1/2007, dated 16.06.2015, quash the same with regard to imposing punishment of recovery of 1/3rd amount from the pension and consequently direct the respondents to pay the full pension and terminal benefits due to the petitioner.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.P.Subbaraj

Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 16.06.2015 passed by the second respondent imposing the punishment of recovery of 1/3rd amount from his pension payable to the petitioner, for a period of five years.

2. The petitioner was earlier working as Sub-Registrar and is now retired from service. While in service, he had allowed registration of the sale deed dated 19.12.2001 belonging to a trust. The petitioner claims that as on the date of registration, ie., on 19.12.2001, the subject property was belonging to a trust and not to a temple. According to the petitioner,



W.P.(MD)No.23506 of 2016

erroneously, by total non-application of mind to the said fact, departmental proceedings has been initiated against the petitioner by the respondents claiming that the property which was allowed to be registered by the petitioner as Sub-Registrar on 19.12.2001 is a temple property. Pursuant to the departmental proceedings, the petitioner has been punished with 1/3rd cut from his pension amount for a period of five years, under the impugned order dated 16.06.2015 passed by the second respondent. Aggrieved by the same, this writ petition has been filed on the following grounds:

(a) Despite the fact that the alleged incident, for which the petitioner has been charged was on 19.12.2001, the respondents have initiated the disciplinary proceedings against the petitioner only in the year 2008, which is an inordinate delay;

(b) Despite the fact that on 19.12.2001 when the petitioner permitted registration of the document in respect of the property, which was not a temple land, the respondents have arbitrarily and illegally initiated the disciplinary proceedings against him. According to the petitioner, subsequently ie., on 20.07.2004, the subject property was classified as a temple land and therefore, the petitioner cannot be charged



W.P.(MD)No.23506 of 2016

on the ground that he had allowed registration of the document in respect of a temple land on 19.12.2001.

3. A counter affidavit has been filed by the respondents reiterating the contents of the impugned order by once again stating that the property, which was allowed to be registered by the petitioner on 19.12.2001 is a temple land.

4. However, as seen from the documents filed along with this writ petition, which are not disputed by the respondents, it is clear that as on 19.12.2001, when the petitioner permitted registration of the document of the property involved in the said document, the property was admittedly not a temple land. A-Register pertaining to the property as on 19.12.2001 has also been produced by the petitioner along with this writ petition, which confirms that as on the date of registration of the document ie., on 19.12.2001, the property was not a temple land and it was belonging to a trust. The petitioner has also produced the order obtained by the seller (trust) in a petition in O.P.No.44 of 2001 dated 18.12.2001 on the file of the District Judge, Dindigul, under which the



W.P.(MD)No.23506 of 2016

WEB COPY said trust was granted permission to sell the property. The correction of the A-Register, pursuant to the order passed by the Joint Commissioner has also been placed on record. As seen from the same, the subject property became a temple land only with effect from 20.07.2004. Therefore, it is clear that on 19.12.2001, when the document involving the subject property was permitted by the petitioner for registration, the subject property was not a temple land.

5. The learned counsel appearing for the petitioner drew the attention of this Court to a Division Bench judgment of this Court dated **05.09.2019** passed in **WP.No.14481 of 2019** reported in **2019 Supreme Madras 269** in the case of **M.Mary Kala Jayanthi vs. Chief Metropolitan Magistrate, Egmore at Allikulam Complex, Chennai and Others** and would submit that as per the said decision, it is clear that the departmental proceedings initiated beyond the period prescribed under Rule 9(2)(b)(ii) of the Tamilnadu Pension Rules, 1978 is time barred. Rule 9(2)(b)(ii) of the Tamilnadu Pension Rules, 1978 makes it clear that any departmental proceedings will have to be initiated within a period of four years from the date of the incident.



W.P.(MD)No.23506 of 2016

WEB COPY

6. In the instant case, the date of the incident was on 19.12.2001.

Whereas the departmental proceedings has been initiated against the petitioner only in the year 2008, after a lapse of more than seven years from the date of the incident. Therefore, it is clear that the departmental proceedings initiated against the petitioner is time barred. However, by total non-application of mind to the same, the punishment order has been imposed against the petitioner in the impugned order.

7. On the ground that the property on the date of the registration, ie., on 19.12.2001 was not a temple land and also on the ground that the departmental proceedings initiated against the petitioner is time barred as per Rule 9(2)(b)(ii) of the Tamilnadu Pension Rules, 1978, this Court will have to necessarily quash the impugned order, under which erroneously by total non-application of mind, the punishment of 1/3rd pension cut for a period of five years, has been imposed on the petitioner.

8. For the foregoing reasons, the impugned order dated 16.06.2015 is hereby quashed and this writ petition is allowed by directing the second respondent to pay the arrears of pension amount to



W.P.(MD)No.23506 of 2016

the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

03.10.2024

Index : Yes / No
NCC : Yes / No
Sm

TO:

- 1.The Principal Secretary,
Registration Department,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The Inspector General Of Registration,
Santhome High Road,
Chennai - 600 028.
- 3.The District Registrar,
Dindigul District,
Dindigul.



WEB COPY



W.P.(MD)No.23506 of 2016

ABDUL QUDDHOSE, J.

Sm

Order made in
W.P.(MD)No.23506 of 2016

Dated:
03.10.2024