



W.P. No. 14191 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 14191 of 2018

and

W.M.P. No. 16756 of 2018

P.Sivaji

... Petitioner

-VS-

1. The Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs,
New Delhi - 1.
2. The Director General,
Central Industrial Security Force,
Lodhi Road, CGO Complex,
New Delhi - 110 003.
3. The Deputy Inspector General,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation,
Neyveli.
4. The Group Commandant,
Central Industrial Security Force,
Group Head Quarters,
Besant Nagar,
Chennai - 600 090.
5. The Foreigners Regional Registration Officer,
Bureau of Immigration,
Ministry of Home Affairs,
Government of India,
Chennai - 600 006.



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6. The Senior Accounts Officer,
Regional Pay & Accounts Office,
Central Industrial Security Force,
D-Block, 3rd Floor, Rajaji Bhavan,
Besant Nagar,
Chennai - 600 090.

7. The Commandant,
Central Industrial Security Force Unit,
V.O.C. Port Trust,
Tuticorin.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the respondents to disburse the Retirement benefits namely DCRG (Death Cum Retirement Gratuity) Rs. 8,48,925/-, commuted value of Pension Rs. 9,74,552/-, Leave Encashment for 10 Months and Pension from September 2017 to till date together with Interest from 01.09.2017 to till the payment is made.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.J.Madana Gopal Rao,
SCGSC (for R1 to R4)

Mr.V.Chandrasekaran (for R5)

ORDER

Heard Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner, Mr.J.Madana Gopal Rao, learned Senior Central Government Standing Counsel for the first to fourth respondents and Mr.V.Chandrasekaran, learned counsel for the fifth respondent and perused the materials placed on record, apart from the



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pleadings of the parties.

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2. The petition has been filed for issuance of writ of mandamus for a direction to the respondents to dispose the retirement benefit of DCRG (Death cum Retirement Gratuity) Rs.8,48,925/-, Commuted value of Pension Rs.9,74,552/-, Leave Encashment for 10 months and Pension from September 2017 to till date together with interest from 01.09.2017 to till the payment is made.

3. The petitioner who was working as Assistant Sub Inspector of Police in the CISF, has been placed under suspension. At that time he was serving in the Neyveli Lignite Corporation, Neyveli. He was sent on deputation to Bureau of Immigration at Chennai Airport with effect from 11.06.2003. He was relieved from service with effect from 30.04.2010. The petitioner thereafter has submitted an application for voluntary retirement and that was accepted by the seventh respondent and he was given with the discharge certificate relieving the petitioner with effect from 31.08.2017. As his retirement benefits have not been disbursed so far, this writ petition has been filed for issuing the writ of mandamus to the respondent in this regard.

4. The learned counsel for the respondents 1 to 4 submitted that after the petitioner was sent on deputation, he over stayed with the fifth respondent beyond



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the maximum period for which he can be deputed. At the first instance, the petitioner was deputed for a period of 3 years and thereafter, he has been given with an extension for 4th and 5th years till 10.06.2008, but the petitioner did not report to the parent department. However, he over-stayed with the fifth respondent from 11.06.2008 and 30.04.2010 citing his personal reasons.

5. As per DoP&T O.M. No.6/5/2009-Esst(Pay-II) dated 17.06.2010, no extension for deputation beyond a period of 5 years can be given. As per the DoP&T O.M. Dated 01.03.2011, if a person is allowed to stay for more than 5 years, he is liable to be subjected to disciplinary action and his unauthorized over-stay will not be counted for service for the purpose of pension or increment due during that unauthorized period. The clarification has also been issued in this regard through the Force Head Quarters, New Delhi vide letter 16015/85/1/2012/ESTT.II/VOL.II /1241 dated 14.03.2019. The over-stayed period of the petitioner with the fifth respondent was on deputation without authentication has not been included in the qualifying service for getting the terminal benefits or other benefits as clarified in the above letter 16015/85/1/2012/ESTT.II/VOL.II/1241 dated 14.03.2019. Hence, the petitioner has been given with the terminal benefits after deducting the same. The rest of the amount is said to have been credited in the account of the petitioner. If the petitioner is aggrieved, he ought to have challenged the proceedings, which denied the benefits for the period during which he had



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stayed with the fifth respondent beyond the maximum of five years on deputation.

The petitioner did not choose to challenge the clarification given by the letter 16015/85/1/2012/ ESTT.II/VOL.II /1241 dated 14.03.2019, but he has filed this petition seeking for issuance of writ of mandamus. The respondent did not pass any orders on the representation of the petitioner in the light of the said clarification dated 14.03.2019.

6. In view of the above stated reasons, this writ petition is disposed by directing the seventh respondent to consider the representation of the petitioner dated 19.01.2018 and pass appropriate orders in the light of the above observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya



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R.N.MANJULA, J.

Maya

To

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New Delhi - 1.
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