(2014) 08 MAD CK 0214

In the Madras High Court

Case No : W.A. (MD). No. 616 of 2013

N. Kandhimathinathan APPELLANT

Vs

The Commissioner RESPONDENT

Date of Decision : 08-08-2014

Acts Referred:

Citation : (2014) 08 MAD CK 0214

Hon'ble Judges : R. Mahadevan, J;M. Jaichandren, J

Bench : Division Bench

Judgement

M. Jaichandren, J.—Heard Mr.G.Prabhu Rajadurai, the learned counsel, appearing on behalf of the appellant and Mr.Aaiyaram K.Selvakumar, the learned Government Advocate, appearing on behalf of the respondent.

2. This Writ Appeal has been filed against the order of the learned Single Judge, dated 18.04.2013, made in W.P.(MD).No.7285 of 2010.

3. The petitioner in the Writ Petition, in W.P.(MD).No.7285 of 2010, is the appellant in the present Writ Appeal. The appellant herein had filed the said Writ Petition, before this Court, praying for a Writ of Mandamus to direct the respondent Municipal Corporation to pay interest on the petitioner''s retiral benefits and pension, from 01.06.2001 or from the date on which it became due, till the date of payment, by considering his representation, dated 03.04.2010.

4. It had been stated that the petitioner had joined as a Junior Assistant in the respondent Corporation and had retired from service, on 31.05.2011, on attaining the age of superannuation. On the eve of his retirement, the petitioner had been placed under suspension and a charge memo had been issued against him. As no final orders had been passed, by the respondent, the petitioner had filed a Writ Petition, before this Court, in W.P.(MD).No.41239 of 2002. This Court had directed the respondent therein to pass final order, within the specified period, by its order, dated 15.11.2002. Pursuant to the order passed by this Court, the respondent had passed an order, dated 10.09.2003, terminating the

petitioner from service. Thereafter, the petitioner had preferred an appeal before the Appeal Committee of the respondent Corporation. By an order, passed by this Court, on 21.03.2005, in W.P.(MD).No.2158 of 2005, the Appeal Committee had been directed to dispose of the appeal preferred by the petitioner, within a period of eight weeks. Pursuant to the direction issued by this Court, the Appeal Committee had passed an order, dated 21.06.2004, exonerating the petitioner from the charges framed against him.

5. The respondent Corporation had preferred a revision before the Government, challenging the order passed by the Appeal Committee, dated 21.06.2004. The Government, by its order, made in G.O.(D) No. 392, dated 21.09.2005, had set aside the order of the Appeal Committee. Questioning the said order, the petitioner had preferred a Writ Petition, before this Court, in W.P.(MD).No.33163 of 2005. Finally, after several rounds of litigation, the Government had passed an order, in G.O.(D).No.283, dated 24.07.2006, by which, the petitioner had been compulsorily retired from service. Thereafter, the petitioner had prayed for payment of his retiral benefits. Since the retirement benefits were not paid, the petitioner had filed a Writ Petitions, in W.P.(MD).Nos.9986 of 2006 and 8998 of 2007, before this Court, for the payment of his retiral benefits. He had also filed a Contempt Petition, in Cont.P(MD).No.38 of 2007, for the payment of his retiral benefits. Finally, an order had been passed by this Court, on 18.04.2013, in W.P.(MD).No.7285 of 2010, wherein, this Court had directed the respondent Corporation to pay interest on the retiral benefits, due to the petitioner, from the month of October, 2007 till February,2010 along with interest, at the rate of 18% per annum, as it had been noted that the petitioner had submitted his proposal for pension only during the month of October,2007.

6. The appellant, aggrieved by the said order passed by the learned Single Judge, dated 18.04.2013, made in W.P.(MD).No.7285 of 2010, has filed the present Writ Appeal before this Court stating that the petitioner had submitted his proposal for pension, during the year 2001 and therefore, he is entitled to payment of interest from the year 2001, when he had retired from service, on attaining the age of superannuation.

7. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that the petitioner had compulsorily retired from the respondent Corporation pursuant to an order passed by the Government, in G.O.(D).No.283, dated 24.07.2006. Subsequently, the retiral benefits, due to the petitioner, had been paid, by the respondent Corporation, from the month of February, 2010. Therefore, the petitioner had preferred the Writ Petition, in W.P.(MD).No.7285 of 2010, praying for a Writ of Mandamus to direct the respondent Corporation to pay interest on the retiral benefits of the petitioner, from 01.06.2001 or from the date on which it became due, till the date of its payment. The learned Single Judge had passed an order, dated 18.04.2013, in W.P.(MD).No.7285 of 2010, directing the respondent Corporation to pay the interest on the retiral benefits

due to the petitioner, at the rate of 18% per annum, from the month of October, 2007, till the month of February,2010. However, the petitioner has made a claim that he had submitted his proposal for pension, at the time of his retirement and therefore, the respondent Corporation has to pay the interest on the belated payment of his retirement benefits, from the date of his retirement from service. However, the petitioner has not been in a position to show that he had submitted his proposal for pension, immediately, at the time he had retired from service.

8. From the records placed before this Court, it could be seen that the petitioner had submitted his proposal for pension only during the month of May,2007. In fact, it could be seen, from the records, that the proposal for pension, submitted by the petitioner, had been received by the respondent Corporation, on 09.05.2007. Further, the petitioner has not shown sufficient evidence to substantiate his claim that he had submitted the proposal for pension, at the time of his retirement.

9. In such circumstances, we are of the considered view that the Writ Appeal is devoid of merits. Therefore, it is liable to be dismissed. Accordingly, it is dismissed. No costs.