

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

WP.No.18930/2015
and
M.P.Nos.1 and 2 of 2015

M.Srirangan

... Petitioner

Versus

1. Government of Tamil Nadu
rep. by Principal Secretary to Government,
Home (Police) Department,
Government Secretariat,
Chennai-9.
2. The Inspector General and
Commissioner of Police,
Salem City, Salem.
3. The Tribunal for Disciplinary Proceedings,
Coimbatore-641 045.
4. The Principal Accountant General
(Accounts and Entitlements),
Teynampet, Chennai-18.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent in (1) CPO:281/2009 (C.No.H1/3322/2009) dated 27.04.2009 (2) C.P.O.285/2009 (C.No.H1/3322/47/09) dated 29.04.2009 respectively (3) T.D.P.Case No.09/2009 dated 07.08.2009 of the 3rd respondent and (4) Government Lr.No.40674/POL-IV/2013-14 dated 20.09.2013 of the 1st respondent and quash the same and to issue consequential directions to the respondents to permit the petitioner to peacefully retire from service on 30.04.2009 A.N. and with all pensionary and retirement benefits with interest at 12% p.a. on the delayed payments.

For Petitioner : Mr.M.Ravi
For RR 1 & 2 : Mrs.M.E.Rani Selvam,
Additional Government Pleader

ORDER

The petitioner was an Inspector of Police, Salem District. He was to retire from service on 30.04.2009. Before his retirement, he was placed under suspension by an order dated 27.04.2009 due to the pendency of the criminal case in Cr.No.19/AC/08 under Section 7 and 13(ii) r/w.13(1)(d) of Prevention of Corruption Act, 1988. Thereafter, another order dated 29.04.2009 was passed invoking Fundamental Rule 56(i)(c) not permitting him to retire.

2. The only reason for not permitting him to retire is based on the aforesaid criminal case. Later, the criminal case was dropped by the Chief Judicial Magistrate, Salem pursuant to the final report filed by the Investigating agency. In view of the same, the petitioner seeks to quash the suspension order dated 29.04.2009 not permitting him to retire.

3. The learned Counsel for the petitioner has also submitted that a proceeding in TDP.No.9 of 2009 is pending before the Tribunal for Disciplinary Proceedings. Without prejudice to his right to question the aforesaid proceedings, the learned Counsel for the petitioner has submitted that the petitioner may be permitted to retire by quashing the aforesaid orders dated 27.04.2009 and 29.04.2009 in the aforesaid circumstances.

4. As rightly pointed out by the learned Counsel for the petitioner, the order dated 29.04.2009 is based on the criminal case. Admittedly, the criminal case was dropped. Hence, the reason for not permitting him to retire goes. Therefore, I am in full agreement with the contention made by the learned Counsel for the petitioner.

5. In view of the above, the impugned orders of the 2nd respondent dated 27.04.2009 and 29.04.2009 are set aside and the 2nd respondent is directed to pass appropriate order permitting the petitioner to retire within a period of two weeks from the date of receipt of a copy of this Order. However, I make it clear that there is no impediment for the department to proceed with the TDP Case No.9 of 2009 in accordance with law and also to pay him provisional pension and other terminal benefits which he is entitled to pursuant to the said order permitting him to retire.

6. With the above observation, the Writ Petition is allowed.
No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tsi

To

1. Principal Secretary to Government,
Government of Tamil Nadu,
Home (Police) Department,
Government Secretariat,
Chennai-9.
2. The Inspector General and
Commissioner of Police,
Salem City, Salem.
3. The Tribunal for Disciplinary Proceedings,
Coimbatore-641 045.
4. The Principal Accountant General
(Accounts and Entitlements),
Teynampet, Chennai-18.

+1cc to Mr.M.Ravi, Advocate, S.R.No.32314
+1cc to the Government Pleader, S.R.No.32608

WP.No.18930/2015

and

M.P.Nos.1 & 2 of 2015

SK(CO)
CA(13/07/2015)

WEB COPY