

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.21222 of 2015

&

M.P.Nos.1 and 2 of 2015

N.Gopalakrishnan ... Petitioner

Versus

1. The Secretary to the Government
Commercial Taxes and Registration Department
Fort St. George
Chennai - 600 009
 2. The Principal Secretary/
Commissioner of Commercial Taxes
Chepauk
Chennai - 600 005
 3. The Joint Commissioner (Administration)
Commercial Taxes Department
Chepauk
Chennai - 600 005
 4. The Additional Commissioner (Public Relations) /
Enquiry Officer
Office of the Commissioner of Commercial Taxes
Chepauk
Chennai - 600 005
- ... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records to ADC (PR)/34224/2013 CD2/17926/2009 dated 22.06.2015 on the file of the fourth respondent, quash the notice of hearing issued by the fourth respondent under Rule 17(b) of the Tamil Nadu Civil Service (Appeal & Discipline) Rules and consequently to direct

the first and second respondents to give all retirement benefits to the petitioner as the petitioner had been allowed to retire w.e.f.30.04.2004.

For Petitioner : Mr.A.Immanuel
For Respondents : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner worked as Assistant Commissioner (Commercial Taxes). When the petitioner reached the age of superannuation on 30.04.2004, he was not permitted to retire. Later, the first respondent issued G.O (D) No.518 dated 23.11.2012 permitting him to retire without prejudice to the disciplinary proceedings pending against him based in the charge memo dated 03.05.2010.

3. When the charge memo dated 03.05.2010 was issued under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules, he was retained in service. Now the petitioner is permitted to retire by G.O (D) No.518 dated 23.11.2012 as stated above.

4. In fact, I passed an order dated 05.09.2013 in W.P.No.10158 of 2011 directing the respondents to complete the disciplinary proceedings relating to the charge memo dated 03.05.2010 and pass final orders within a period of six months from the date of receipt of copy of that order. In these circumstances, the impugned notice dated 22.06.2015 is issued directing the petitioner to appear for enquiry on 15.07.2015. In the said notice, it is stated that the Disciplinary Proceedings is initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Hence, this writ petition is filed to quash the aforesaid notice dated 22.06.2015.

5. According to the petitioner, after the petitioner is permitted to retire, the disciplinary proceedings can be continued only under the Tamil Nadu Pension Rules.

6. I am in agreement with the submission made by the learned counsel for the petitioner. However, I am not inclined to interfere with the enquiry. The petitioner shall appear before the Enquiry Officer in the next hearing date since today is the hearing date. The respondent is directed to issue fresh notice calling the petitioner to appear for the enquiry.

7. It is made clear that the respondents shall proceed against the petitioner only under the Tamil Nadu Pension Rules. It is well settled that once the Government servant is permitted to retire, Tamil Nadu Civil Services (Discipline and Appeal) Rules would not be attracted and the proceedings initiated under the said rules would be continued under the Tamil Nadu Pension Rules.

8. The writ petition is disposed of with the aforesaid observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to the Government
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+1cc to M/s.A.Immanuel, Advocate sr.no.35975
+1cc to Special Government pleader, sr.no.35822

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srg 29.07



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