

In the High Court of Judicature at Madras

Dated: 30.09.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.30623 of 2015  
& M.P.Nos.1 and 2 of 2015

Radhakrishnan @ Radhakrishna

.... Petitioner

Vs.

1. The Home Secretary, Government of Tamil Nadu,  
Fort St. George, Chennai - 9.
2. The Additional Director General of Prisons,  
Chennai - 8.
3. The Superintendent of Prisons,  
Central Prison - I, Puzhal.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of 3rd respondent issued in na.Ka.No.8838/Po-1/2015 dated 16.09.2015 and quash the same and consequently to direct the respondents 1 to 3 to settle all retirement benefits to the petitioner with interest till the date of actual realization.

For Petitioner : Mr.P.J.Thirumoorthy

For Respondents : Mr.V.Subbiah, SP1.G.P.

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O R D E R

By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner was appointed as Assistant jailor by way of direct recruitment through the Tamil Nadu Public Service Commission. He got promotion as Deputy Jailor during the month of August, 2008 and he has to attain the age of superannuation on 30.09.2015 (today).

The petitioner would state that he was put in charge of stores in the prison and then Superintendent of Prisons used to verify the stock every month and found to be in order. The petitioner, while on deputation in Central Prison II, Puzhal, the Vigilance Team attached to the office of the second respondent has conducted surprise raid on 02.08.2013 and verified the stock. However, no information was conveyed to the petitioner as to the deficit in stock.

3. However, to the shock and surprise of the petitioner, nearly after a lapse of two years from the date of surprise inspection/check, the first respondent has issued G.O.(2D) No.143, Home (Prison-I) Department on 17.04.2015 stating among other things that during the course of inspection done on 02.08.2013, there was a deficit stock to the tune of Rs.1,84,203/-. Therefore, the act of the petitioner was in contravention of Rule 45 of the Tamil Nadu Prison Rules 1983 and Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973. The petitioner, challenging the legality of the charge memo, has filed the present Writ Petition.

4. When the matter was listed on 29.09.2015 under the caption 'for admission', learned counsel appearing for the petitioner would submit that in the absence of any specific allegation as to the dishonest motive, charge under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, cannot be framed and prayed for appropriate orders. Mr.V.Subbiah, learned Special Government Pleader accepted notice on behalf of the respondents and sought time to get instruction.

5. The case is listed today and the learned Special Government Pleader appearing for the respondents produced the letter of the second respondent dated 30.09.2015 addressed to the office of the Government Pleader, wherein it is stated among other things that it is proposed to permit the petitioner to retire from Government service without prejudice to the Disciplinary Proceedings and Appeal Rules against the petitioner, vide proceedings No.8838/G1/2015, dated 16.09.2015.

6. Learned counsel appearing for the petitioner would submit that in the light of the proceedings, the petitioner may be permitted to retire on superannuation without prejudice to the disciplinary proceedings initiated against him, as it is always open to the respondents to pass appropriate orders depending upon the report of the Enquiry Officer and the conclusion of the Disciplinary Authority.

7. In the light of the above facts and circumstances, this Writ Petition is disposed of by taking note of the fact that the petitioner is permitted to retire from service today without prejudice to the disciplinary proceedings initiated against him. It is needless to say that in the event of any adverse order passed

against the petitioner, it is always open to the petitioner to work out his remedy in accordance with law before the competent forum. No costs. Consequently, M.P.Nos.1 and 2 of 2015 are closed.

Sd/-  
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

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To

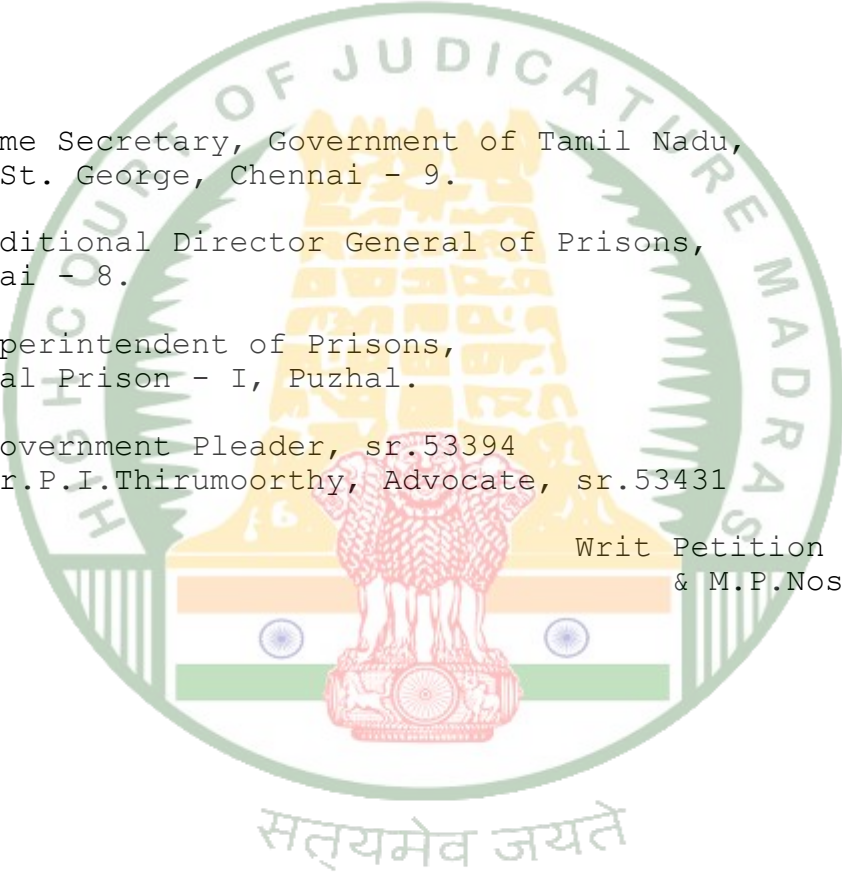
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+1 cc to Government Pleader, sr.53394

+1 cc to Mr.P.I.Thirumoorthy, Advocate, sr.53431

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