



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.08.2015

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THE HONOURABLE MR. JUSTICE T. RAJA

W.P(MD)Nos.10794 and 11633 of 2015
and
M.P. (MD).Nos.1,1 and 2 of 2015

R.Manicka Krishnamoorthy .. Petitioner in both writ petition
Vs

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul District,
Dindigul.

3.The Tahsildar,
Kodaikanal / Dindigul (East)
Dindigul.

.. Respondents in both writ petition

Prayer in W.P(MD)No.10794 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Roc.No.13814/2015/A1, dated 26.06.2015 and Na.Ka.No.17107/2015-1/A1, dated 22.06.2015 and to quash the same and to direct the first respondent herein to permit the petitioner to peacefully retire from service in the post of Special Tahsildar (Social Security Scheme) as on 30.06.2015 AN and to grant all consequential retirement and pensionary benefits.

Prayer in W.P.(MD).No.11633 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Roc.No.13814/2015/A1, dated 30.06.2015 and to quash the same and with the consequential direction directing the first respondent herein to permit the petitioner to peacefully retire from service in the post of Special Tahsildar (Social Security Scheme) with effect from 30.06.2015 AN and to grant all consequential retirement and pensionary benefits.



For Respondents in
both writ petition :Mr.J.Gunaseelan Muthiah
Government Advocate

COMMON ORDER

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These two writ petitions have been filed challenging the impugned order issued by the first respondent in ROC No.13814/2015/A1, dated 26.06.2015 and 30.06.2015, not allowing the petitioner to retire from service on reaching the age of superannuation and not permitting the petitioner retired from service on 30.06.2015 after noon and he is retained in service for the purpose of completing the departmental proceedings initiated against him.

2.The learned counsel appearing for the petitioner submitted that the petitioner was promoted as Tahsildar in the year 2011 and he was eagerly waiting for date of retirement to retire from service with effect from 30.06.2015. However, he was issued with a charge memo on 26.06.2015 by the first respondent calling for explanation in regard to his failure to supervise the act of the Village Administrative Officer and for the erroneous report dated 02.01.2013 recommending for permission to cut Kungulium and E.Grantis Trees at Survey No.635/2 in Kukul Village in Kodaikanal Taluk. However, on receipt of the charge memo, the petitioner also submitted a detailed explanation on 27.05.2015 denying the false charges levelled against him. Now the respondents have not started the departmental proceedings. When the petitioner submitted a detailed explanation on 27.05.2015, by taking into consideration the date of retirement of the petitioner on 30.6.2015, the respondents ought to have appointed an enquiry officer and completed the enquiry within a time frame and having not done so, the petitioner should be permitted to retire from service, so that he will be able to get his pension and other benefits and simultaneously participate in the departmental proceedings.

3.The learned counsel further submitted that the allegation levelled against the petitioner in the charge-memo are with regard to the lack of supervision and there is no direct allegation against him. Therefore, the charge memo issued under Rule 17(b) of Tamil Nadu Civil Services (D & A) Rules, should not have been invoked against the petitioner for imposition of major penalties. When the Government has repeatedly issued various circular, G.O., making it clear as to under what circumstances, the charges shall have to be issued under Rule 17(b) of Tamil Nadu Civil Service (D & A) Rules, more particularly, with reference to the Government Circular No.14353/Per.N/93-1, dated 11.03.1993 applying the same in the present case, the petitioner is only to supervise the report of the VAO, hence they should not have proceeded under Rule 17(b) for major penalties. However, the petitioner is prepared to face the enquiry, therefore, the direction may be given to the respondents to permit the petitioner to retire from service without prejudice to the enquiry.



4.A detailed counter has been filed by the first respondent.

5.The learned Government Advocate appearing for the respondents submitted that it is not a case to permit the Petitioner to retire from service during the midst of enquiry, since serious allegations are levelled against the petitioner in charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules, on 22.06.2015. On receipt of the charge memo, the petitioner also has to participate in the enquiry and thereafter, the petitioner will be able to prove his innocence and the disciplinary authority will be able to pass final orders on merits. Further, the learned Government Advocate submitted that the petitioner having inspected the land in S.No.635/2 of Kookkal Village on 18.12.2013 and submitted his recommendation to the first respondent vide his office proceedings in Na.Ka.No.11702/2013/A2, dated 02.01.2014 along with revenue accounts and other documents, based on the recommendations of the petitioner, the Hill Area Preservation Committee headed by the first respondent dated 18.03.2014, has granted permission to the petitioners V.Sakthivel and V.Mahendran to cut and remove the 1944 grown up and matured trees (864 Gunguliam and 1080 E.Grandys trees) in S.No.635/2 of Kookkal Village, Kodaikanal Taluk, Dindigul District as per the provisions of the Tamil Nadu Hill Areas (Preservation of Trees) Act 1955. Subsequently, when another inspection was conducted by the present Tahsildar along with other officials, it was found that there was no trees standing in the said S.No.635/2 of Kookkal Village and it is an agricultural land wherein potato cultivation alone has been made and there is no small house situated in the same survey land. The learned Government Advocate further submitted that on further verification, it was revealed that nearly 25 Gunguliam trees have been cut and removed from the adjoining S.Nos.631, 632 and 633 of Kookkal Village which are the Government Poramboke lands viz., Assessed Waste Dry Lands. The said trees were cut and removed based on the tree cutting orders received by the Sakthivel and Mahendran, since the report submitted by the present Tahsildar clearly shows that the petitioner has committed very serious mistake, he cannot be allowed to retire from service as prayed for by the petitioner.

6.Having considered the rival submissions made on either side and also having gone through the counter affidavit and the charge memo, this Court is not able to entertain the writ petitions and hence, the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. Since the petitioner had already reached the age of superannuation, the disciplinary authority is directed to complete the enquiry within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(AE)



To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul District,
Dindigul.

3.The Tahsildar,
Kodaikanal / Dindigul (East)
Dindigul.

+One cc to M/s.Polax Legal Solution, Advocate, SR.No.48053

+One cc to The Special Government Pleader, SR.No.48451

Ns

RL/6 c- 29/10/2015

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20.08.2015