

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6130 of 2017

And

WMP No.6604 of 2017

Kittappa

..

Petitioner

vs.

1. The Inspector General of Registration,
Santhome,
Chennai-28.

2. The Deputy Inspector General of Registration,
Thanjavur.

3. The District Registrar (Administration),
The Enquiry Officer,
Mayladuthurai.

..

Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in charge memo No.60944/A1/2005 dated 10.8.2007 and consequential order in Proceedings No.1936/A1/2014 dated 27.2.2017, on the file of the third respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to allow the petitioner to retire from service and disburse all benefits which includes terminal/retirement benefits, pensionary and other benefits which this petitioner is entitled to.

For Petitioner : Ms.R.Poornima

For Respondents : Mr.K.Dhananjeyan,
Special Government Pleader.

O R D E R

The relief sought for in this writ petition is challenging the charge memo issued by the first respondent on 10.8.2007 and the consequential benefits dated 27.2.2017 and for a direction to allow the petitioner to retire from service and to disburse all the terminal/retiral benefits.

2. The writ petitioner was holding the post of Sub-Registrar and on the allegation of the demand of illegal gratification from one Hajee Muhamed Ali on 10.10.2005, a criminal case was registered by the Vigilance and Anti Corruption Department, Nagapattinam.

3. Pursuant to the action initiated by the Department of Vigilance and Anti Corruption, the writ petitioner was placed under suspension on 20.10.2005. During the pendency of the criminal case, a charge memo dated 10.8.2007 was issued to the writ petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Meanwhile, the writ petitioner was due to retire on attaining the age of superannuation on 31st May 2008. But he was not allowed to retire on account of the pendency of the criminal case and his services were extended under the Fundamental Rule 56(1)(c).

4. The learned counsel for the petitioner contended that the criminal case, after trial, ended with an order of acquittal in Special Calendar Case No.3 of 2008 on 29.4.2016. Thus, it is argued that the departmental charges are also to be quashed.

5. This Court took an exception to this argument on the ground that the Criminal Court Proceedings and the Departmental Proceedings stand on different footings, since the Criminal Court requires a high standard of proof for convicting an accused, but such a proof may not be required for conducting departmental disciplinary proceedings and the preponderance of probabilities are sufficient to punish a delinquent Officer under the Discipline and Service Rules, so also under the Government Servant Conduct Rules.

6. In the case on hand, the charge memo was issued on the same line of the criminal charges, but the charges are relating to the demand of bribe. The menace of corruption cannot

be dealt with in a casual manner and the Authorities have to be vigil and strict in dealing with the corruption cases. All the corruption cases are to be dealt with iron hand and no leniency be extended in such cases.

7. In this view of the matter, this Court is of the firm view that the enquiry proposed to be taken out to be conducted by the Department and the writ petitioner cannot seek any exemption from participating in the disciplinary proceedings.

8. It is informed before this Court that an Enquiry Officer was already appointed and the enquiry also had commenced. Thus, it is left open to the writ petitioner to attend the enquiry and defend his case in order to prove his innocence. Accordingly, the relief sought for to quash the charge memo deserves no consideration in view of the fact that the allegations against the petitioner is relating to demand of bribe.

9. At this juncture, the learned counsel, appearing for the writ petitioner, made a reasonable submission that since the disciplinary proceedings are pending for a considerable length of time, it is appropriate to fix a time frame for its completion.

10. Considering such a representation, this Court is of the view that such a direction will meet the ends of justice. Accordingly, the respondents are directed to complete the enquiry in accordance with the Rules and pass final orders in the disciplinary proceedings, within a period of six months from the date of receipt of a copy of this order, provided the writ petitioner cooperates for such completion of the enquiry in all respects. The writ petition stands disposed of, however, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Inspector General of Registration,
Santhome,
Chennai-28.
2. The Deputy Inspector General of Registration,
Thanjavur.
3. The District Registrar (Administration),
The Enquiry Officer,
Mayladuthurai.

+1cc to the Government Pleader, S.R.No.47348/17

W.P.No.6130 of 2017

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