

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23191 of 2014

and

M.P.No.1 of 2014 &
WMP.No.14779 of 2017

V.Perumal

... Petitioner

Vs

1.The Principal Secretary to Government,
Home Department,
Fort St.George,
Secretariat, Chennai - 600 009.

2.The Director General of Police,
Tamil Nadu, Chennai - 600 004.

3.The Commissioner of Police,
Salem City,
Salem 6

4.The Deputy Commissioner of Police,
Law & Order, Salem City,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 4th respondent dated 29.8.2012 in C.No.P.R.03/H1/2010 C.P.O 710/2012 and quash the same and further directing the respondents to permit the petitioner to retire from service and consequently direct the respondents to disburse all the retirement benefits as per Special Sub Inspector promotion dated 16.3.2009 with effect from 01.06.2008 based on the representation dated 13.1.2014.

For Petitioner : Mr.K.V.Sanjeevkumar
for M/s.Royan Law Associates
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The order of suspension issued against the writ petitioner in proceedings dated 29.8.2012, is under challenge in this writ petition.

2. The writ petitioner has joined as Police Constable on 20.2.1975, in Salem District and promoted as Grade-I Constable in the year 1995. The writ petitioner was further promoted to the post of Head Constable in the year 1998 and in fact, based on the pendency of the criminal case in F.I.R.No.7/2009 in Kondalampatti Police Station, Salem under Section 294(b), 324, 342 of I.P.C., the petitioner was placed under suspension.

3. The learned counsel appearing for the writ petitioner states that subsequently, the order of suspension was revoked and the petitioner was allowed to serve and once again, on the eve of the retirement, the writ petitioner was placed under suspension in proceedings dated 29.8.2012.

4. On a perusal of the impugned order of suspension, it is seen that Thiru.V.Perumal (writ petitioner) HC 469 of Fairlands Police Station, Salem City, formerly Annathanapatty Police Station in Crime No.7/2009, committed offences under Sections 294(b), 324, 342 I.P.C. The case was charged on 27.2.2009 and it is pending trial before the Judicial Magistrate-V, Salem in C.C.No.85/2009 and simultaneous departmental action was also initiated in P.R.03/H1/2010 u/r 3(b) of TNPSS (D& A) Rules, 1955 and pending disposal against him.

5. Under these circumstances, the writ petitioner was placed under suspension. However, the learned counsel appearing for the writ petitioner states that the writ petitioner is continuing under suspension even after his retirement and he is unable to get his terminal and other benefits and a long pendency of the proceedings causes prejudice to him as well as to his family. The learned counsel for the petitioner informed this Court that the criminal case, which was registered against the writ petitioner in C.C.No.85/2009 was already disposed of and the petitioner was acquitted from the criminal case. Thus, it is for the respondents to conclude the departmental disciplinary proceedings also.

6. The learned Additional Government Pleader appearing for the respondents made a submission that the departmental disciplinary proceedings are independent and unconnected with the criminal case. However, it is for the disciplinary authority to consider all these aspects and conclude the disciplinary proceedings in all respects and pass final orders in the disciplinary proceedings. The learned Additional Government Pleader further states that the mere order of acquittal will not exonerate the delinquent official and the disciplinary authority

is free to proceed with the disciplinary proceedings based on the records available in accordance with the said Rules. Thus, he requests that liberty may be given to the disciplinary authority to proceed with the disciplinary proceedings in accordance with the Rules.

7. This Court is of the firm opinion that a criminal case requires a strict proof of evidence to convict a person. However, preponderance of probabilities are sufficient to punish an employee under the conduct Rules. Thus, the disciplinary proceedings are independent and unconnected with the criminal case. Even an order of acquittal will not exonerate the delinquent official from the departmental disciplinary proceedings and the competent authority in this regard has to conduct enquiry in accordance with the Rules and pass final orders in the disciplinary proceedings. In this view of the matter, this Court is of the opinion that the respondents are at liberty to proceed with the departmental disciplinary proceedings by conducting an enquiry by providing an opportunity to the petitioner and take decision and pass final orders in this regard. The writ petitioner was placed under suspension on 29.8.2012 itself and 4 ½ years lapsed and further delay would cause prejudice to the settlement of all terminal retirement benefits to the writ petitioner.

8. Under these circumstances, the respondents have to complete the enquiry in all aspects without causing any further delay. Thus, the respondents are directed to proceed with the departmental disciplinary proceedings and conduct enquiry based on the materials available on record and give an opportunity of hearing to the petitioner and thereafter conclude the same and pass final orders in the departmental disciplinary proceedings within a period of four months from the date of receipt of a copy of this order. The writ petitioner is directed to co-operate with the disciplinary authority in all respects for completion of the disciplinary proceedings.

9. Accordingly, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Principal Secretary to Government,
Home Department,
Fort St.George,
Secretariat, Chennai - 600 009.

2.The Director General of Police,
Tamilnadu, Chennai - 600 004.

3.The Commissioner of Police,
Salem City,
Salem 6

4.The Deputy Commissioner of Police,
Law & Order, Salem City,
Salem.

+1 CC to Ms. Royan Law Associates, sr 77549.

+1 CC to Govt. Pleader sr 78252.

SR(CO)
SP(24/11/2017)

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