

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.14500 of 2017

and

W.P.M.P.Nos.15731 to 15733 of 2017

A.Ilambarithi

..Petitioner

Vs

1. The Principal Secretary to Government
Tourism, Culture and Religious
Endowments (RE 2.2) Department
Fort St. George
Chennai - 600 009

2. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhisalai
Nungambakkam
Chennai - 34

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned order of the 1st respondent vide G.O.(D).No.91, Tourism, Culture and Religious Endowments (RE 2.2) Department dated 25.05.2017 and the consequential order in G.O.(D) No.93, Tourism, Culture and Religious Endowments (RE 2.2) Department dated 30.05.2017 and quash the same as illegal.

For Petitioner : Mr.C.Arulvadivel alias Sekar

For Respondents : Mr.M.Maharaja
Special Public Prosecutor

ORDER

Mr.M.Maharaja, the learned Special Government Pleader, takes notice on behalf of the respondents.

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

3.The order impugned in this writ petition is a suspension order dated 25.05.2017. The writ petitioner was working as a Joint Commissioner in Hindu Religious and Charitable Endowment Department. On account of an investigation undertaken with regard to a criminal offence against the writ petitioner, the writ petitioner is placed under suspension in G.O (D) No.91, Tourism Culture and Religious Endowments (R.E.2.2) Department dated 25.05.2017.

4. Suspension is not a punishment and on contemplation of charges or pending criminal case, an employee of a Government may be placed under suspension under the Tamil Nadu Civil Service (Discipline and Appeal) Rules.

5. The learned counsel appearing for the writ petitioner contended that as per G.O.Ms.No.144, Personal Administrative Reforms (N) Department dated 08.06.2007 and G.O.Ms.No.105, Home (General) Department dated 18.01.1989, the last minute suspension cannot be ordered.

6.In fact this Court is not able to appreciate the contention in view of the fact that the Government orders are mere guidelines, which will not have any statutory force or the effect of rules. Under the rules, an employee can be placed under suspension if the disciplinary proceedings are initiated. More so, in the present case as the writ petitioner is going to attain the age of superannuation and necessarily, the respondents have to place him under suspension in view of the pending investigation in a criminal case. Secondly, his services are also to be extended as per the fundamental rules.

7. The learned counsel for the petitioner submits that the Government Order issued by the Government are binding on the respondents since the employer and employee relationship exists between the writ petitioner and the respondent. The Government servants are public servants. Public servants are duty bound to maintain their conduct and character throughout and not only during official hours. Even beyond official hours, the Government officers are bound to maintain their conduct and any misconduct even outside the employment as far as the public servants are concerned are vital. Any public servant cannot plead that he has not committed an offence during duty hours while performing the duty. Such a contention cannot be considered because public servants enjoy a status in the society and by virtue of their status, they have to maintain good conduct and character throughout by 24x7 and 365 days. Therefore, this Court is of the firm view that the conduct of a public servant has to be observed not only during his official hours, but also beyond. This is the reason why the rules and codes have repeatedly held that the public servants enjoy a

public status in the society and by virtue of the special status, they require to maintain good conduct, both inside and outside office. The Court is made to make such an observation in view of the argument advanced by the learned counsel for the petitioner that the Government order is binding on the respondent Department. So also, the Government orders are issued in order to guide the subordinate officials and the procedure to be followed. Such guidelines and orders passed by the Government cannot have statutory force and it has to be adopted wherever necessary and non-adherence in certain circumstances will not give any right to the petitioner to get relief on that score. Such view of the matter, this Court is not inclined to consider the arguments advanced by the learned counsel for the petitioner.

In this view of the matter, the other grounds raised by the writ petitioner in the writ petition deserves no merit consideration and accordingly the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Principal Secretary to Government
Tourism, Culture and Religious
Endowments (RE2.2) Department
Fort St. George
Chennai - 600 009

2. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Uthamar Gandhisalai
Nungambakkam
Chennai - 34

+2cc to Mr.Arulvadivel alias Sekar, Advocate in sr.no.46453
+1cc to government Pleader in sr.no.47112

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NR 18/07/2017