

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3717/2017

N.S.Lakshmanan

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Petitioner

Vs

1.The Directorate of Medical Education,
Kilpauk, Chennai-10.

2.The Director of Social Obstetrics
Govt. Kasturibai Gandhi Hospital
for Women and Children, Triplicane
Chennai-5.

3.The Principal Secretary
Govt. of Tamil Nadu
Health and Family Welfare Department
Fort St George, Madras-9.

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to dispose the representation dated 26.12.2016 within a stipulated period.

For Petitioner : Mr.V.Bhiman

For Respondents : Mr.P.Sanjay Gandhi, AGP

ORDER

By consent, the writ petition is taken up for final disposal. MR.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondents.

2 The petitioner, while working as an Office Superintendent at Government Kasturibai Gandhi Hospital for Women and Children, Chennai-5, was said to have been involved in the commission of the offences punishable under the provisions of the Prevention of Corruption Act, 1988, for having demanded and accepted bribe and he was placed under suspension from service on 21.05.1996. The criminal case has culminated in a positive final report, which was taken on file in CC.No.1/1999 on the file of the Court of the III Additional Sessions Judge, Chennai, and vide judgment dated 24.04.2003, the petitioner was acquitted. The Inspector of Police, Vigilance and Anti Corruption, Chennai, has filed an appeal in CA.No.1122/2004 on the file of this Court and it was also dismissed on 29.09.2010 and in the interregnum, the petitioner was not permitted to retire from service. The petitioner was also issued with a charge memo dated 25.09.2001, during the pendency of the criminal proceedings, on

the very same set of allegations and despite his acquittal, no progress took place in the disciplinary proceedings and therefore, the petitioner filed WP.No.29823/2016 on the file of this Court, praying for quashment of the same and this Court, vide order dated 26.09.2016, has directed the 1st respondent to pass final orders on the pending disciplinary proceedings on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of that order.

3 The 1st respondent, vide proceedings dated 05.10.2016, in Ref.No.46717/SC IV/2/1996-1, had dropped further action on the charge memo dated 25.09.2001. The grievance expressed by the petitioner is that despite dropping the proceedings as early as on 05.10.2016, the period of suspension has not been regularised, arrears of salary have not been paid and no orders, so far, has been passed permitting the petitioner to retire from service and only in the event of passing such an order, the petitioner is entitled for retiral/terminal benefits and in this regard, he has submitted a representation dated 26.12.2016 to the 1st respondent, with a copy marked to the respondents 2 and 3 and despite receipt and acknowledgment, no orders have been passed and therefore, the petitioner came forward to file the present writ petition.

4 Mr.V.Bhiman, learned counsel appearing for the petitioner would submit that in the light of the proceedings of the 1st respondent, dropping further proceedings on the charge memo, there cannot be any impediment on the part of the respondents to consider the genuine request of the petitioner and pass appropriate orders at an early date for the reason that the petitioner is now aged about 73 years and is suffering due to Metastatic Carcinoma left Lung and prays for appropriate orders.

5 Heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents, who would submit that in the light of the proceedings of the 1st respondent dated 05.10.2016, appropriate orders would be passed.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 The petitioner was placed under suspension on 21.05.1996 for having demanded and accepted illegal gratification and as pointed out, the criminal case has ended in acquittal and the appeal preferred by the State, has also ended in dismissal. The further

proceedings in respect of the Charge Memo dated 25.09.2001, were also directed to be dropped vide proceedings of the 1st respondent dated 05.10.2016. In the light of the said development, in the considered opinion of the Court, there cannot be any impediment on the part of the respondents 1 to 3 to pass appropriate orders for regularisation of the period of suspension of the petitioner, payment of arrears of salary, permit him to retire from service and to pay the retiral/terminal benefits.

8 In the result, the writ petition stands disposed of and the respondents 1 to 3 are directed to pass appropriate and consequential orders, regularising the period of suspension of the petitioner ; payment of arrears of salary, permitting the petitioner to retire from service and to pay the terminal/retiral benefits, within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

15.02.2017

Index : No
Internet : Yes

NOTE: Issue order copy on 24.02.2017.

AP

M.SATHYANARAYANAN, J.,
AP

To

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