

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2017

Coram

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No. 15765 of 2017

and

W.M.P.No. 17049 of 2017

Mr. K. Parthasarathi

... Petitioner

Versus

1. The Director of School Education,
Office of the Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
2. The Director of Elementary School Education,
Office of the Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
3. The Joint Director of School Education (Personnel)
Office of the Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
4. The Chief Educational Officer
Chief Education Office,
Sathuvachari, Vellore District.
5. District Elementary Educational Officer,
District Elementary Education Office,
Vellore, Vellore District.
6. The Assistant Elementary Educational Officer,
Assistant Elementary Education Office,
Thimiri,
Vellore District.

... Respondents

Writ Petition, filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified mandamus calling for the records of the third respondent in his proceeding R.C.No.074400/A3/S2/2015 dated 25.05.2017 and quash the same as illegal and consequently direct the third respondent to allow the petitioner to retire peacefully on superannuation on 31.05.2017 and to pay the petitioner all attendants benefits including pension and all pensionary benefits.

For Petitioner : Dr. D. Simon

For Respondents : Mr. P. Sanjay Gandhi,
Additional Govt. Pleader

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner has come to this Court questioning the correctness of the order dated 25.05.2017, placing him under suspension in exercise of power under sub-rule (e)(1)(i)&(ii) 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and also the another proceeding of the Joint Director of School Education (Personnel), Chennai, not permitting him to retire from service under Rule 56(1)(c) of the Fundamental Rules on reaching the date of superannuation viz., 31.05.2017 after noon and retaining in service until the enquiry into grave charges pending against him and final order passed against him by the competent authority.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been implicated in a false case registered against him and two others. Secondly, immediately after the registration of an FIR, the petitioner moved an application before this Court seeking anticipatory bail under Section 438 of Cr.P.C. This Court, by order dated 20.10.2014, clearly recording the position that the money allegedly received by him was paid back to the de-facto complainant, enlarged the petitioner on anticipatory bail. Therefore, the pendency of the criminal case, which is totally a false case, cannot be kept as a hindrance for the petitioner to retire from service.

4. Heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents.

5. These matters have to be placed before the Enquiry Officer since the petitioner has been placed under suspension,

in view of the charge memo issued under the Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeals) Rules and he has to prove his innocence by placing the very same de-facto complainant, who is said to have received the money from him. Further, the petitioner had already reached the age of superannuation and he need not be kept under suspension till the disposal of the criminal case. Hence, this Court, in the larger interest of both sides, hereby directs the respondent disciplinary authority to expedite the completion of the disciplinary proceedings against the petitioner, inasmuch as the petitioner, after receiving the charge memo, has also submitted his explanation denying the charges. Therefore, the disciplinary authority shall consider his explanation. If for any reason, the explanation offered by the petitioner and the order passed by this Court granting Anticipatory Bail is not satisfied, it is open to the disciplinary authority to proceed further and complete the enquiry within a period of four months from the date of receipt of a copy of this order and pass final orders.

6. The learned counsel appearing for the petitioner sought for a direction to the respondents to consider the payment of provisional pension only in lieu of subsistence allowance, since the petitioner has already reached the date of superannuation. It is needless to say that the petitioner is entitled to get the provisional pension and the same shall be considered.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

mrr/vsm

To

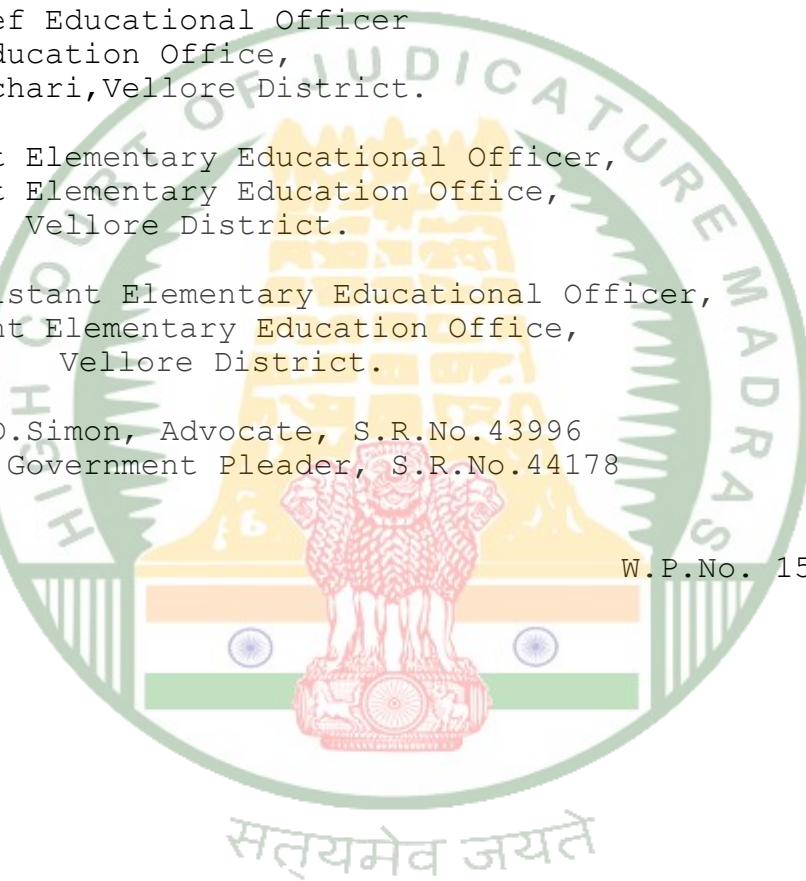
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+1cc to Dr.D.Simon, Advocate, S.R.No.43996
+1cc to the Government Pleader, S.R.No.44178

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CS/05/07/17



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