

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.29463 of 2017
and
W.M.P.No.31760 of 2017

K.Murugiah

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Chief Secretary and
Chief Vigilance Commissioner,
Fort St. George,
Chennai-600 009.

2.The Government of Tamil Nadu
rep. by the Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.

3.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the entire records in connection with order issued by the 2nd respondent vide Lr.No.14880/HB1(1)/2016-5, dated 08.12.2016 to the petitioner and to quash the same and consequently, to direct the respondents to revoke the suspension of the petitioner and to permit the petitioner to retire from service and settle all consequential retirement benefits with interest.

For Petitioner : Mr.R.Chandrasekaran

For Respondents : Mr.V.Jayaprakash Narayanan, Spl GP
(For R1 & R2)

Mr.V.Anandamurthy (For R3)

O R D E R

Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, took notice for the respondents 1 & 2 and Mr.V.Anandamurthy, learned Standing Counsel for the Tamil Nadu Housing Board, took notice for the 3rd respondent.

2.The writ petitioner has come to this Court challenging the impugned order dated 08.12.2016 passed by the 2nd respondent, in and by which the request of the petitioner to permit him to retire from service after revoking his suspension was rejected.

3.The petitioner, having joined the Tamil Nadu Housing Board as Assistant Engineer on 07.12.1977, got promotion as Assistant Executive Engineer in the year 2005. After some time, he was further promoted to the post of Executive Engineer and posted in Besant Nagar Division, Chennai, on 30.03.2007. The records show that he was also promoted as Superintending Engineer in the year 2011. When he was reaching the age of superannuation on 31.05.2012, he was placed under suspension by government order in G.O.(2D).No.102, Housing and Urban Development [HB1(1)] Department, dated 31.05.2012, on the ground he is facing a criminal case. He made a request to revoke the suspension order, but the same was rejected by order dated 08.12.2016 passed by the 2nd respondent viz., the Secretary to Government, Housing and Urban Development Department, vide his proceedings in Letter No.14880/HB1(1)/2016-5. Since the petitioner is facing a criminal case on the file of the Special Court for Offences under Prevention of Corruption Act, 1988, in C.C.No.25/2013, for the offences under Sections 12B, 409 IPC and Section 13(2) r/w 13(1)(c) & (d) of Prevention of Corruption Act & Section 109 IPC, the petitioner cannot ask for revocation of suspension, unless he gets an order of acquittal from the criminal Court in the pending criminal case. Therefore, the present writ petition, challenging the impugned order passed by the 2nd respondent rejecting to revoke his suspension, fails.

4.However, the learned counsel for the petitioner submitted that a part of his retirement benefits, namely, his contribution to the GPF, Special Provident Fund, and leave salary, can be disbursed.

5.Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents 1 & 2 as well as Mr.V.Anandamurthy, learned Standing Counsel for the Tamil Nadu Housing Board (3rd respondent) submitted that if the petitioner makes a representation requesting for disbursement of the aforesaid retirement benefits, the same can be considered.

6. In view of the same, this Court directs the petitioner to make a representation to the 2nd respondent seeking for disbursement of the aforesaid retirement benefits, within a period of one week from the date of receipt a copy of this order. On such representation being made, the 2nd respondent shall consider the same, if rules permits, and pass orders in respect of disbursement of the aforesaid retirement benefits, within a period of four weeks from the date of receipt of the petitioner's representation.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Chief Secretary and
Chief Vigilance Commissioner,
Government of Tamil Nadu
Fort St. George,
Chennai-600 009.
2. The Secretary to Government,,
Government of Tamil Nadu
Housing and Urban Development Department,
Secretariat,
Chennai-600 009.
3. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

+ 1 cc to Government Pleader SR.82426
+ 1 cc to Mr.V. Anandhamurthy, Advocate Sr.82185
+1 cc to Mr.R. Chandrasekaran, Advocate Sr.81797

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and
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RV(CO)
EU(23/11/2017)