

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7288 of 2015

R.Sengodan

.. Petitioner

vs.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Home Department,
Secretariat,
Chennai-9.

2.The Director General of Police,
Tamil Nadu,
Chennai-4.

3.The Deputy Inspector General of Police,
Salem Range,
Salem.

4.The Superintendent of Police,
Namakkal District.

5.The Accountant General,
(Accounts & Entitlements),
Teynampet,
Chennai-18.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents herein to finalise the disciplinary proceedings initiated by the third respondent in Charge Memo PR No.42/B1/2009 dated ...04.2009

and pass final orders thereon within a time frame stipulated by this Court and to disburse all the retirement and pensionary benefits to the petitioner, forthwith, without awaiting the outcome of the pending disciplinary proceedings in accordance with law.

For Petitioner : Mr.M.Ravi

For Respondents-1 to 4 : Mr.S.Gunasekaran,
Additional Government Pleader.

For Respondent-5 : Mrs.Hema Muralikrishnan,
Standing Counsel.

ORDER

The relief sought for in this writ petition is for a direction to the respondents to finalise the disciplinary proceedings initiated by the third respondent in charge memo issued in April 2009 and thereafter disburse all the retirement and pensionary benefits to the writ petitioner.

2. The learned counsel appearing for the writ petitioner states that the disciplinary proceedings against the writ petitioner was initiated by the third respondent in charge memo issued in April 2009. Through order dated 30.6.2010, the writ petitioner was allowed to retire from service from the post of Special Sub Inspector of Police.

3. Even after allowing the writ petitioner to retire from service, the disciplinary proceedings were kept pending and the writ

petitioner was unable to get his terminal and retirement benefits. He made a representation and thereafter on completion of enquiry, a second show cause notice was issued by the Director General of Police dated 17.7.2014.

4. It is stated in the show cause notice that the charges against the writ petitioner regarding the dereliction of duty is held proved. Accordingly, a provisional conclusion was arrived, to impose a punishment of cut in pension of Rs.100/- per month for a period of six months.

5. The willingness of the writ petitioner was sought for whether he is willing to accept the punishment. The writ petitioner submitted an explanation/objection on 4.8.2014, stating that the charges are to be dropped against him and he should be allowed to retire honourably. The said explanation is kept pending for the past about 3 years and no final decision is taken by the respondents in this regard.

6. The learned counsel appearing for the writ petitioner contended that now that the disciplinary proceedings continued against the writ petitioner after allowing him to retire from service is only under Rule 9 of the Tamil Nadu Pension Rules and the proposed punishment is also communicated to the writ petitioner in proceedings dated 17.7.2014.

7. According to that show cause notice, the punishment proposed is one cut in pension of Rs.100/- per month for a period of six months. Thus, it is sufficient if the total punishment amount of Rs.600/- is withheld and rest of the terminal and retirement benefits are to be disbursed.

8. There is a reason to consider the arguments advanced on behalf of the writ petitioner in view of the fact that under the Pension Rules, there is no possibility of further improvement in disciplinary proceedings and ultimately the proposed punishment has to be inflicted on the writ petitioner in the event of not considering the explanation submitted by him in this regard.

9. Thus, without going into the merits of the case, this Court is of the firm opinion that it is not a case where there is any scope for improvement for imposing any other punishment other than the punishment proposed in the show cause notice dated 17.7.2014.

10. In this view of the matter, the claim of the writ petitioner is justifiable and there cannot be any bar for disbursing the terminal and retirement benefits by withholding the proposed punishment of Rs.600/- in total and proceed with the disciplinary proceedings for passing the final orders.

11. The learned Additional Government Pleader, appearing on behalf of the respondents 1 to 4, opposed this argument by stating that the writ petitioner has been committed an act of dereliction in duty and the charge against the writ petitioner was proved. Therefore, he has to wait till the final order in the disciplinary proceedings and only after receipt of the opinion from the Tamil Nadu Public Service Commission, the final order in the disciplinary proceedings will be passed.

12. Assuming that the Tamil Nadu Public Service Commission opinion is to be obtained, there is no scope of imposing any other punishment to the writ petitioner under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

13. The only option left for the respondents is to impose the punishment only under the Pension Rules. This being the case, the objections of the learned counsel appearing on behalf of the respondents may not have much relevance with regard to the facts and circumstances of the case on hand.

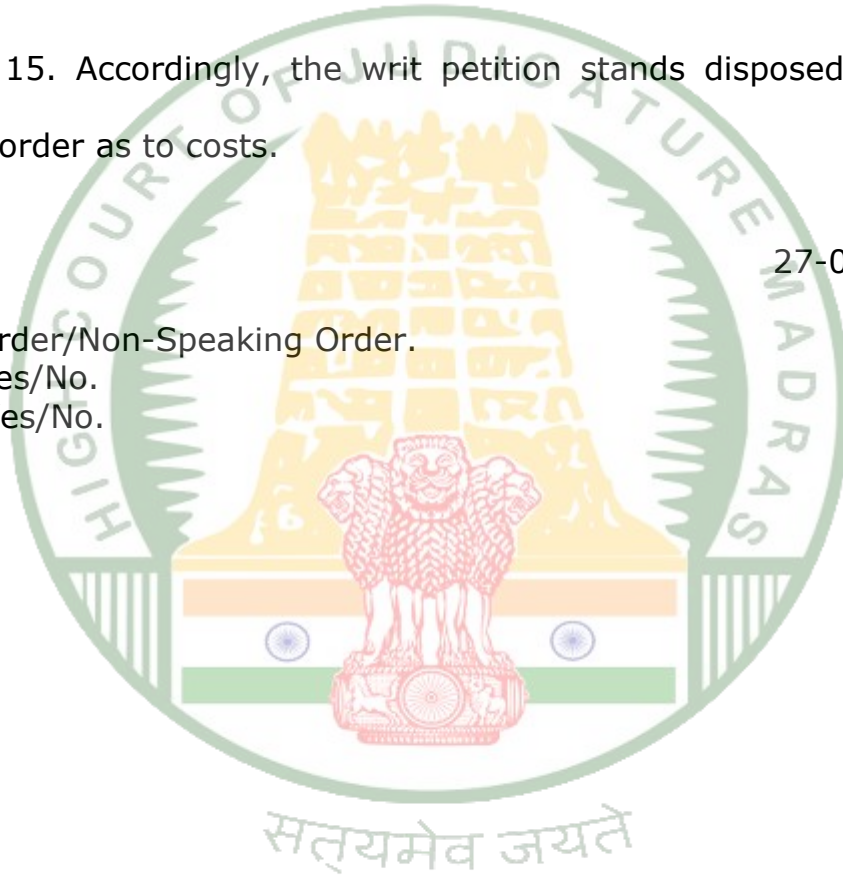
14. In this view of the matter, the respondents are directed to pass final orders in the disciplinary proceedings, within a period of four weeks from the date of receipt of a copy of this order and in the event of

not passing any final orders, within the said period, the respondents are directed to settle the terminal and retirement benefits to the petitioner by withholding the proposed punishment amount of Rs.600/- as early as possible, preferably within a period of 3 months thereafter.

15. Accordingly, the writ petition stands disposed of. There shall be no order as to costs.

27-07-2017

Speaking Order/Non-Speaking Order.
Index : Yes/No.
Internet : Yes/No.
Svn



WEB COPY

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat,
Chennai-9.
- 2.The Director General of Police,
Tamil Nadu,
Chennai-4.
- 3.The Deputy Inspector General of Police,
Salem Range,
Salem.
- 4.The Superintendent of Police,
Namakkal District.
- 5.The Accountant General,
(Accounts & Entitlements),
Teynampet,
Chennai-18.



WEB COPY

S.M.SUBRAMANIAM, J.

Svn



W.P.No.7288 of 2015

WEB COPY