

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5478 of 2016

And

WMP Nos.4820 and 4821 of 2016

S.Vijayakumar

.. Petitioner

vs.

The Principal Secretary/
Transport Commissioner,
Chepauk,
Chennai-600 005.

.. Respondent

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records pertaining to the order of the respondent herein passed in Proc.R.No.54844/VA1/2011 dated 26.8.2011 placing the petitioner under suspension and the consequential order passed in Memo R.No.54844/ VA1/2011 dated 10.6.2014, rejecting the petitioner's representation for revocation of suspension and quash the same.

For Petitioner : Mr.Ravi Shanmugam
For Respondent : Mr.S.Gunasekaran,
Additional Government Pleader.

O R D E R

The order of suspension and rejection of an appeal filed against the order of suspension are under challenge in this writ petition.

2. The writ petitioner was holding the post of Superintendent and on account of certain allegations, a criminal case was registered against the writ petitioner and based on the criminal proceedings, he was placed under suspension in proceeding dated 26.8.2011. Questioning the validity of suspension, the writ petitioner preferred an appeal to the Appellate Authority and the same was also rejected in proceedings dated 10.6.2014.

3. The learned counsel appearing for the writ petitioner, though adjudicated the matter on merits and, defended the order of suspension and the appellate order in this regard, submitted the fact that the writ petitioner is

due to retire from service with effect from 30.9.2017 on account of his attaining the age of superannuation.

4. Thus, this Court is of the view that on the date of retirement, if a criminal case is pending against a public servant, he cannot be allowed to retire from service and he should be retained in service by virtue of Rule 56(1)(c) of the Fundamental Rules. Under these circumstances, the question of revocation of suspension does not arise at all, on the point of criminal case registered against the writ petitioner and appropriate relief is to be granted to the writ petitioner based on the judgment to be delivered in the criminal case.

5. In this view of the matter, no further adjudication on merits is to be undertaken in this writ petition at this point of time. Thus, the writ petitioner stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Svn

To

The Principal Secretary/
Transport Commissioner,
Chepauk,
Chennai-600 005.

सत्यमेव जयते

+1 CC to Mr. Ravi Shanmugam, Advocate sr 57203.

+1 CC to Govt. Pleader sr 57484.

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SP(23/08/2017)