IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P.No.18409 of 2004

K.V.Durai Manickam … Petitioner

Vs.

1.The Deputy Commissioner [C.T.],
Trichy Division,
Trichy.

2.The Asst. Commissioner [C.T.],
Kumbakonam. … Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records and proceedings of the 1st respondent in R.C.12293/2004/E4 dated 25.06.2004 and quash the same and consequently direct the respondents to pay all the service and retirement benefits to the petitioner.

For Petitioner : Mr.P.Solomon Francis

For Respondents : Mr.Kanmani Annamalai AGP(Tax)

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records in respect of Proceedings of the 1st respondent in R.C.12293/2004/E4 dated 25.06.2004, quash the same and consequently, direct the respondents to pay all the service and retirement benefits to the petitioner.

The very short facts which are required to be noticed for disposal of this Writ Petition is as follows:

2.The petitioner was working as a Collection Inspector at Kumbakonam, in Commercial Tax Office during the year 2002. At that time, on 30.04.2002, the Vigilance and Anti Corruption people came to the office of the Commercial Tax at Kumbakonam, at 03.30pm and made a search with the four Collection Inspectors including the petitioner, and they found certain amounts were with them. Pursuant to which, the petitioner was transferred to Karur, by an order of the 1st respondent dated 18.06.002, which was challenged by the petitioner before the Tamil Nadu Administrative Tribunal in O.A.No.3583 of 2002, where an order of Stay was granted against the order of transfer to continue to work at the erstwhile office at Kumbakonam. At the time of filing this Writ Petition, the petitioner was working at Commercial Tax Office, Mayiladuthurai, as Establishment Clerk.

3.Pursuant to the said incident, no charge memo has been issued against the petitioner. However, the petitioner was placed under suspension by the impugned order dated 25.06.2004 of the Deputy Commissioner of Commercial Tax, Trichy Division. According to the said order, the petitioner had been suspended and he was not allowed to leave the head quarters without obtaining prior permission with the authorities. Challenging the said order dated 25.06.2004, the petitioner has filed this Writ Petition.

4.The learned counsel appearing for the petitioner would submit that subsequently, the petitioner had superannuated on 30.06.2004, because of the impugned order of suspension, the petitioner was not permitted to retire from service and he has been kept under suspension all along.

5.In order to ascertain as to whether any charge memo subsequently has been issued against the petitioner and whether any departmental enquiry was conducted to that effect, time was given to the learned counsel appearing for the respondents but, so far no material has been produced before this Court to state that subsequently, charge memo has been issued against the petitioner and enquiry was conducted against him. In view of the said position, the assertion made by the learned counsel appearing for the petitioner that no charge memo has been filed against the petitioner and no departmental action was initiated except the impugned order of suspension having been issued to the petitioner, has to be accepted.

6.It is settled law that if a Government employee is placed under suspension, at frequent interval, his/her suspension shall be reviewed as to whether the further extension of suspension is necessitated in the public interest. Here, in the case in hand, except the impugned order of suspension dated 25.06.2004, subsequently, nothing was forthcoming from the respondents. In the meanwhile, the petitioner attained the age of superannuation and he was not permitted to retire from service. This kind of prolonged suspension without framing any charge and without conducting any enquiry, cannot be accepted. A Government Servant cannot be suspended for such a long years, without taking any action on him/her, as no departmental action has been initiated for all these years against the petitioner. If any action is now initiated, the same is belated one and the said action, if it is proposed hereinafter, on the petitioner, cannot be permitted to go on.

7.In view of the above stated facts and circumstances of the case, this Court is inclined to pass the following orders:

(1) The impugned order of suspension dated 25.06.2004 for the aforesaid reason is quashed.

(2) Since no action has been initiated and further, no charge has been framed, such a move at this length of time cannot be undertaken by the respondents. In view of the same, the petitioner shall be entitled to retire on his superannuation on 30.06.2004 and consequently, he shall be entitled to get the entire retiral benefits and pensionary benefits. Such benefits shall be calculated by the respondents and be disbursed to the petitioner within a period of three months from the date of receipt of a copy of this order.

With these directions, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Deputy Commissioner [C.T.],
Trichy Division,
Trichy.

2.The Asst. Commissioner [C.T.],
Kumbakonam.

+ 1 cc to Mr. the Special Government Pleader SWr.87510

W.P.No.18409 of 2004

RK(CO)
EU(30/01/2018)