



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

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CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) No.16022 of 2017

M.Muthiah

... Petitioner

vs.

- 1) The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Rural Development and Panchahyat Raj Department,
Secretariat,
Chennai-9.
 - 2) The Commissioner of Rural Development and Panchayat Raj,
Panagal Mazhigai,
Saidapet,
Chennai-15.
 - 3) The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai-600 003.
 - 4) The District Collector,
Madurai District,
Madurai.
 - 5) The District Collector,
Pudukkottai District,
Pudukkottai.
 - 6) The Commissioner,
Panchayat Union,
Thirupparangundram @ Thirunagar,
Madurai-625 006.
 - 7) The Commissioner,
West Panchayat Union,
Madurai North Taluk,
Madurai-625 002.
- ... Respondents

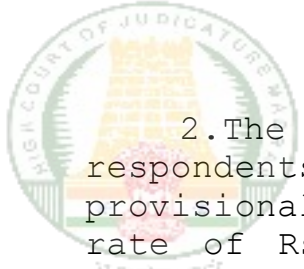


Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the show cause notice proposing punishment in Letter No.29258/E2/1997-21 dated 27.08.2009, Letter No.22795/E2/2000-15 dated 27.08.2009 and Letter No.45389/E2/2001-15 dated 27.08.2009 within a specified time frame that may be stipulated by this Hon'ble Court.

For Petitioner	: Mr.K.Ponnaiah for M/s.Ajmal Associates
For R1, R2, R4 to R7	: Mr.D.Muruganantham Additional Government Pleader
R3	: No Appearance

ORDER

The petitioner while serving as Personal Assistant(SS) to the District Collector, Pudukkottai District, was placed under suspension from 08.07.1996 and not allowed to retire from service on attaining the age of superannuation on 31.05.1997, by G.O(2/D) No.121, Rural Development (E1) Department, dated 30.05.1997. Subsequently, the petitioner was proceeded departmentally by issuing charge memo dated 03.10.1996, for which, he gave his explanation on 30.10.1996. Thereafter, by G.O(D)No.48, Rural Development and Panchayt Raj (E1) Department dated 29.01.2009, the petitioner was permitted to retire from service. Ironically, the said G.O also shows that he was permitted to retire from service with effect from 31.05.1997 A.N without prejudice to the vigilance cases/disciplinary cases pending against him. Finally, Thiru.K.Ramamurthy then ADRD (Schemes), Directorate of Rural Development was appointed as an Inquiry Officer to enquire into the charges framed against the petitioner. After completion of the enquiry, the petitioner was found guilty of the charges 1, 4, 5, 7 and 11 and charges 2, 3, 6, 8, 9 and 10 were not proved. However, for the proven charges, the Government had arrived at a provisional decision to impose punishment of cut in pension at the rate of Rs.500/- for a period of one year from the eligible pension payable to the petitioner. Therefore, the petitioner was issued with a notice dated 27.08.2009 calling upon him to submit his explanation on the proposed penalty within 15 days time and the petitioner also submitted his reply on 29.10.2009. In spite of completion of enquiry in the year 2009 followed by notice dated 27.08.2009 calling upon the petitioner to submit his explanation to the proposed penalty, till date, the respondents have not come forward to pass final order on the pending disciplinary proceedings against the petitioner.



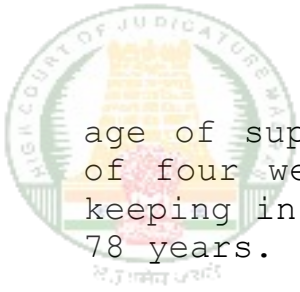
2.The learned counsel for the petitioner submitted that the respondents have not even decided to pass any order accepting the provisional decision to impose punishment of cut in pension at the rate of Rs.500/- per month for a period of one year from the eligible pension payable to the petitioner that shows that they would not pass any final order at all even if a direction is given.

3.The learned Additional Government Pleader appearing for the respondents also submitted that a direction may be issued to pass final order since the notice dated 27.08.2009 was already issued 8 years ago.

4.There is not only a delay in initiation of disciplinary proceedings, but also the final order has not yet been passed so far which is sufficient for quashing the disciplinary proceedings. It is a well settled legal position that delay in initiation and completion of disciplinary proceedings would be fatal to the department to continue the disciplinary proceedings. In the present case, the petitioner was issued with the charge memo on 03.10.1996 for which, explanation was given on 30.10.1996. When the enquiry officer has concluded the enquiry holding that charges 1, 4, 5, 7 and 11 as proved and charges 2, 3, 6, 8, 9 and 10 as not proved and for the proven charges, the Government had arrived at a provisional decision to impose punishment of cut in pension at the rate of Rs.500/- for a period of one year from eligible pension payable to the petitioner and accordingly the petitioner was issued with a notice dated 27.08.2009 calling upon him to submit his explanation on the proposed penalty within 15 days time, for which, the petitioner also submitted his reply on 29.10.2009, granting a direction to the respondents at this stage to pass final orders on the pending disciplinary proceedings against the petitioner from 03.10.1996, the date on which charge memo was issued, would be only a futile exercise.

5.The petitioner has been permitted to retire from service vide G.O(D)No.48, Rural Development and Panchayt Raj (E1) Department dated 29.01.2009 and he is paid with only provisional pension. Non payment of regular pension to the petitioner for the past 9 years to eke-out his livelihood itself is a sufficient punishment, further, inordinate delay vitiates the entire disciplinary proceedings and that no purpose would be served in giving direction at this stage to pass final orders on the pending disciplinary proceedings against the petitioner, hence, on these grounds, all the impugned proceedings are liable to be quashed and accordingly quashed.

6.In the result, the writ petition stands allowed. No costs. The respondents are directed to disburse pension to the petitioner on the basis of his last drawn salary at the time of reaching the



age of superannuation and other retiral benefits within a period of four weeks from the date of receipt of a copy of this order keeping in mind that the petitioner is a senior citizen aged about 78 years.

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Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

- 1) The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Rural Development and Panchahyat Raj Department,
Secretariat, Chennai-9.
- 2) The Commissioner of Rural Development and Panchayat Raj,
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- 6) The Commissioner,
Panchayat Union,
Thirupparangundram @ Thirunagar,
Madurai-625 006.
- 7) The Commissioner,
West Panchayat Union,
Madurai North Taluk,
Madurai-625 002.

+1cc to M/S.K.K.SENTHIL, Advocate SR.No. 78442

+1cc to Special Government Pleader, SR.No. 78661

+1cc to M/S.Ajmal Associates, Advocate SR.No. 78256

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NBI

<https://hcservices.ecourts.gov.in/hcservices/>

CM/ SV MMS/ SAR 27/12.10.2017/4P/11C