

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.04.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8259 of 2018

Dr.K.K.Selvaraj

.. Petitioner

Versus

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 9.

2. The Director of Public Health and
Preventive Medicine,
Chennai - 6.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to conclude and pass final order on the said disciplinary proceedings issued by the 2nd respondent in R.No.9900/PHC 3/2002 dated 26.06.2002 within a reasonable time.

For Petitioner : Mr.G.Elanchezhian

For Respondents : Mr.V.Kadhirvelu
Special Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to conclude the disciplinary proceedings and pass final orders in respect of the disciplinary proceedings initiated by the 2nd respondent in proceedings dated 26.06.2002.

2. The writ petitioner was appointed as Civil Assistant Surgeon on 10.01.1996 and attained the age of superannuation on 31.07.2017. The petitioner was not allowed to retire from service on account of the fact that the criminal case is pending against him. Simultaneously, the departmental disciplinary

proceeding was initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules through the charge memo dated 26.06.2002.

3. The grievances of the writ petitioner is that though the disciplinary proceedings were initiated in the year 2002, the same is yet to be concluded and no final orders have been passed. The domestic enquiry was concluded and the enquiry officer submitted his final report during the year, 2004. However, the disciplinary proceedings are kept pending on account of the fact that criminal case is pending. However, the learned counsel appearing on behalf of the writ petitioner states that the criminal case is in relation to certain family dispute and the case is in no way connected with the disciplinary proceedings. Therefore, there is no bar in passing final orders in the disciplinary proceedings.

4. This Court is of the opinion that even in case, the simultaneous proceedings are instituted, there is no bar for disciplinary authority to proceed in accordance with the rules and conclude the same in all respects. In this view of the matter, this Court is of the opinion that there is an undue delay in disposing of departmental disciplinary proceedings initiated against the writ petitioner.

5. The disciplinary authority must be vigilant in concluding the disciplinary proceedings and undue delay and postponement of final orders are to be avoided. Once the disciplinary proceedings are initiated, the authorities should keep in mind that the same would cause prejudice to the interest of the employees. Pendency of disciplinary proceedings is bar for promotional opportunities and the retired employees may not get their terminal and retirement benefits. This being the rule, the disciplinary authority, on initiation of the disciplinary proceedings should ensure that such proceedings are concluded in all respects within a reasonable period of time and without causing any undue delay. This being the principles to be followed the long pendency of disciplinary proceedings may not be encouraged.

6. In the present case, the charge memo was issued on 26.06.2002 and the enquiry report was submitted in the year 2004 and further representation was also submitted by the writ petitioner on 20.01.2005. This being the factum of the case, the first respondent is directed to conclude the disciplinary proceedings in all respects and pass final orders on merits and in accordance with law, based on the materials available on record within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of.
However, there shall be no order as to costs.

Sd/-
Assistant Registrar(Audit)

//True copy//

Sub Assistant Registrar

AT

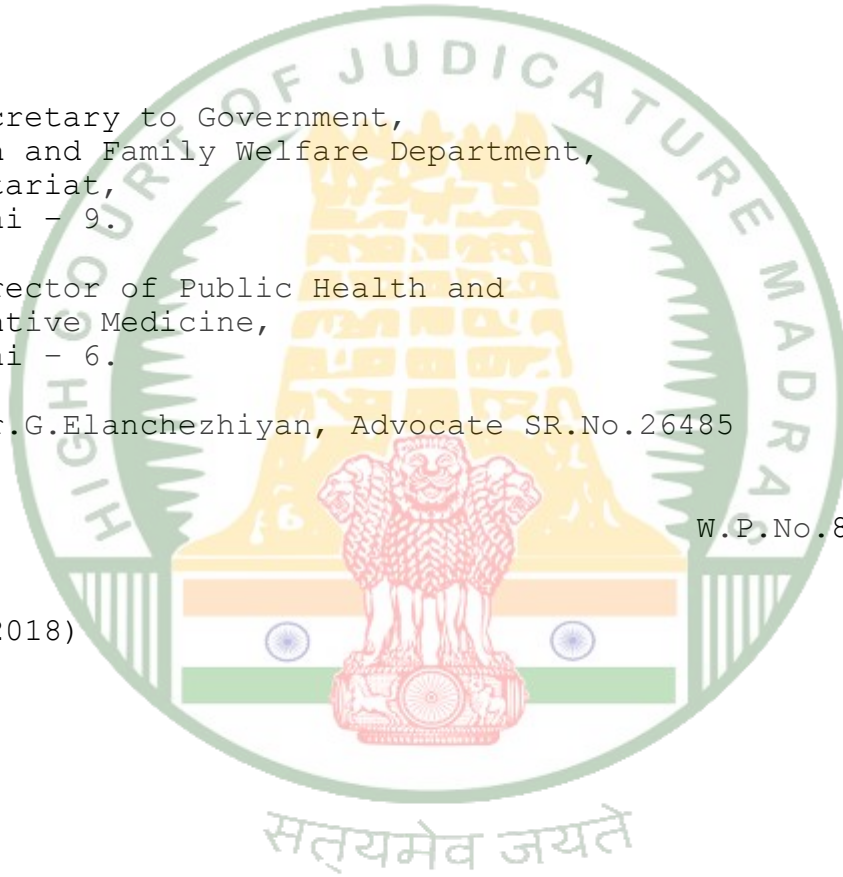
To

1. The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 9.
2. The Director of Public Health and
Preventive Medicine,
Chennai - 6.

+1cc to Mr.G.Elanchezhian, Advocate SR.No.26485

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GJII (CO)
GN(25/04/2018)



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