

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.22998 of 2018

K. Subbiah

...Petitioner

..vs..

1. The Additional Chief Secretary
to Government,
Rural Development and Panchayat
Raj (E2) Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Rural Development
and Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai - 600 015.
3. The Commissioner,
Tribunal for Disciplinary Proceedings,
Marketing Society Building,
Tiruchy Road,
Ramanathapuram,
Coimbatore - 641 045.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the Additional Chief Secretary to the Government, Rural Development and Panchayat Raj (E2) Department, Chennai -9 the first respondent herein to pass final orders in the disciplinary proceedings pursuant to the submission of the Enquiry Report by the Tribunal for Disciplinary Proceedings in TDP. Case No.30 of 2011 dated 07.03.2017 forwarded through the second respondent to the first respondent within a shortest date that may be fixed by this Hon'ble court, failing which further direction may be issued to the effect that the impugned disciplinary proceeding initiated in TDP Case No.30 of 2011 on the file of the Tribunal for Disciplinary proceedings, Coimbatore shall stand dropped as held in 2006(3) MLJ 80 and pass such further another orders.

For Petitioner : Mr. K. Rajkumar

For Respondents: Mrs. Thangavadhana Balakrishnan,
(R1 & R2) Additional Government Pleader

O R D E R

Mrs.Thangavadhana Balakrishnan, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2. Since, no relief has been sought for against the third respondent, this Court feels that notice to the third respondent is not essential for disposal of the Writ Petition. Hence, by consent of learned counsel for the petitioner as well as learned Additional Government Pleader who accepts notice on behalf of the respondents 1 and 2, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. The case of the petitioner in this case is that while he was working as Assistant Executive Engineer in the rural Development and Panchayat Raj Department of the Government of Tamil Nadu, disciplinary proceedings has been initiated against him by the third respondent for possession of disproportionate assets against his known source of income. Such disciplinary proceedings has been concluded and the enquiry report was drawn on 07.03.2017 in the TDP. Case No.30 of 2011. The same also has been forwarded by the third respondent to the first respondent through the Second respondent. But, the first respondent has not taken any decision on the same. The petitioner in the meanwhile, has reached the age of Superannuation and not allowed to retire, in view of the pendency of the disciplinary proceedings and he is continuing under suspension. In such premises, he has come to this Court, seeking for a direction to the first respondent to take decision on the disciplinary proceedings pursuant to the enquiry report of the third respondent dated 07.03.2017, in accordance with law, within a stipulated period.

3. The learned counsel appearing for the petitioner submits that since the petitioner already reached the age of Superannuation on 31.05.2018, disciplinary proceeding initiated has to be concluded expeditiously. Such being the settled position of law, even after furnishing of the report by the third respondent, the first respondent has not chosen to pass orders as required under the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules. It is further submitted that since the nature of relief sought for by the petitioner is limited one, the writ petition may be disposed of, without seeking reply affidavit from the respondents 1 and 2, by directing the first respondent to take decision on the

the Enquiry Report furnished by the third respondent in TDP.Case No.30 of 2011 dated 07.03.2017, within a stipulated period.

4. Mrs.Thanga Vadhana Balakrishnan, who accepts notice on behalf of the respondents 1 and 2 submits that no material is produced before this Court to indicate the fact that no action on the enquiry report has been taken. In such premises, she submits that this Writ Petition is devoid of merits. However, she submits this Court if so desire may dispose of the Writ Petition with a direction to the first respondent to take a decision on such enquiry report within a stipulated period, without putting any fetter to take decision on the same, in any particular manner.

5. After hearing the learned counsel for the parties, especially considering the nature of relief sought for and the submission of the learned counsel for the petitioner, this Court is of the view that the objection made by the learned Additional Government Pleader for the respondents 1 to 2 to dispose of the Writ Petition, after filing of the reply affidavit is without any substance for the reason that granting of aforesaid relief is not going to cause any prejudice to the respondents 1 and 2, more particularly the first respondent. Therefore, this Court taking into consideration aforesaid facts and submissions made, disposes of the Writ Petition, at the stage of admission with a direction to the first respondent to take an informed and considered decision on the Enquiry report furnished by the third respondent for Disciplinary Proceedings in TDP. Case No.30 of 2011 dated 07.03.2017, if the same is pending and no decision on the same has been taken as required under the aforesaid rules, within a period of two months from the date of receipt of a copy of this order. However, it is made clear that this Court had put no fetter on the first respondent with regard to the exercise of its jurisdiction, except to take the decision on the enquiry report furnished by the third respondent.

With the above directions, this Writ Petition stands disposed of. No costs.

Arr

Sd/-

Assistant Registrar(CS IX)

// True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Secretary
to Government,
Rural Development and Panchayat
Raj (E2) Department,
Fort St. George,
Chennai - 600 009.
 2. The Director of Rural Development
and Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai - 600 015.
 3. The Commissioner,
Tribunal for Disciplinary Proceedings,
Marketing Society Building,
Tiruchy Road,
Ramanathapuram,
Coimbatore - 641 045.
- 1 CC TO MR.K.RAJKUMAR, ADVOCATE SR. 61134
 - 1 CC TO THE GOVT. PLEADER, SR 62176

KR/4/10/18

WP.No.22998 of 2018

सत्यमेव जयते

WEB COPY