

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.04.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

W.A. NO. 2398 OF 2010

AND

M.P. NO. 1 OF 2010

N.Pasupathy

.. Appellant

- Vs -

1. The Superintendent of Police
District Police Office
Cuddalore - 1.

2. The Deputy Inspector General of Police
Disciplinary Authority
Villupuram Range, Villupuram.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 11.06.2010 passed by the learned single Judge in W.P. No.12124 of 2010.

PRAYER IN W.P. No.12124 of 2010: Praying for issue of a writ of Certiorari, calling for the records to the order of 1st respondent in Ref. No.DO 471/10-C No.D2/13829/2010 dated 30.4.2010 and order in Ref. No.DO 470/10-C No.D2/13829/2010 dated 30.4.2010 and served on the petitioner on 1st May 2010 and the order of the 2nd respondent in Ref. No.RO 128/10-C No.B2/6540/2010 dated 30.4.2010, and the order in Ref. No.RO 127/10-C No.B2/6540/2010 dated 30.4.2010 and served on the petitioner on 8th May 2010, after the retirement of petitioner on 30.4.2010 and quash the same as illegal.

For Appellant : Mr. K.Gunasekaran

For Respondents : Ms. Thangavadhana Balakrishnan

JUDGMENT

(DELIVERED BY DR. S.VIMALA, J.)

The writ petition filed by the petitioner challenging the order of suspension and an order not permitting him to retire on reaching the age of superannuation, was dismissed and Challenging the same, the present writ appeal has been filed by the appellant.

2. In the writ petition, the appellant herein, challenged the impugned order of the 2nd respondent dated 30.4.2010. The facts, as is evident from the affidavit filed in support of the petition reveals that the petitioner reached the age of superannuation on 30.4.2010. On that date, the appointing authority passed two orders in and by which the appellant herein was placed under suspension and the petitioner was retained in service invoking the provisions of FR 56 (1) (c). These two orders were challenged by the appellant herein in the writ petition.

3. The main contention raised by the learned counsel for the appellant/petitioner is that the suspension order was in violation of G.O. Ms. No.144, P&AR Department, dated 8.6.2010. Clause (5) of Rule 5 speaks about the procedure to be followed by the appointing authority in cases where enquiry could not be completed and also in a case where the enquiry is likely to result in grave consequences like dismissal from service. To address the above, instructions were issued that the Government Servant, who is already under suspension, orders retaining the services of the Government servant beyond the date of superannuation under FR 56 (1) (c) have to be issued on the date of retirement only. In all other cases, the order of suspension should be issued well in advance.

4. No doubt, as contended by the learned counsel for the appellant, there is a procedural violation, but, however, it is not in dispute that already the criminal case against the appellant ended in conviction and on appeal, the conviction has also been upheld. Naturally, when a criminal case ends in conviction, necessarily, the consequences should follow in service also. It is now represented that the disciplinary enquiry has been completed and the dismissal order has been passed by the appointing authority. It is stated that the dismissal order has also not been challenged.

5. In the above circumstances, this Court finds no reason to differ with the findings recorded by the learned single Judge to dismiss the writ petition. Finding no merit, this writ appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Superintendent of Police
District Police Office
Cuddalore - 1.

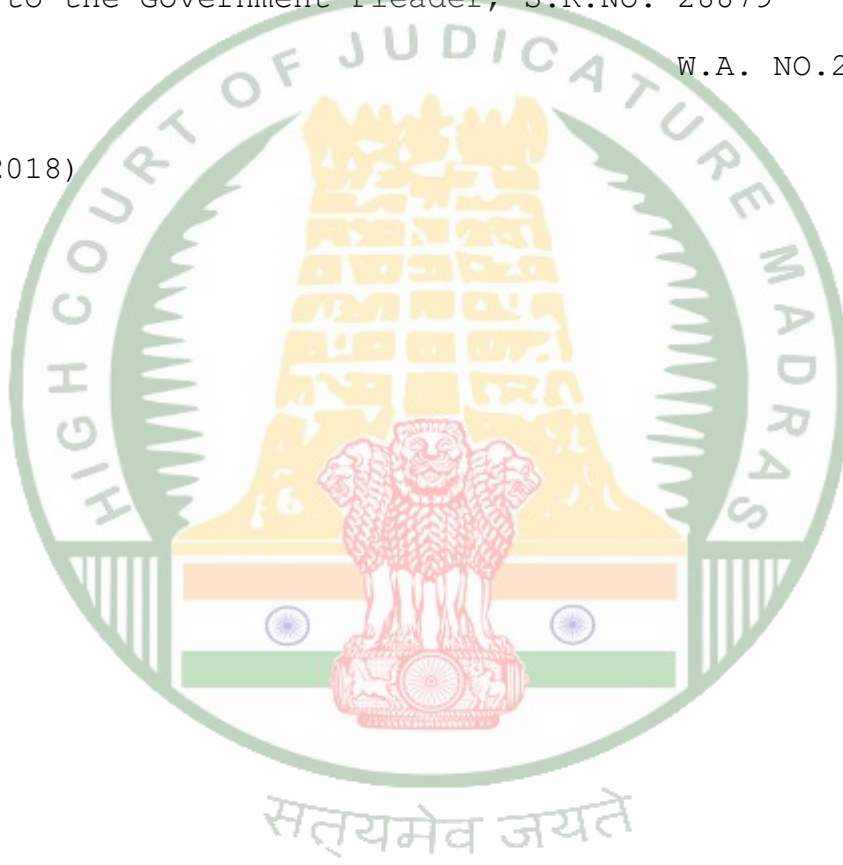
2. The Deputy Inspector General of Police
Disciplinary Authority
Villupuram Range, Villupuram.

+1cc to Mr.K.M.VIJAYAN ASSO. Advocate, S.R.No.28210

+1cc to the Government Pleader, S.R.No. 28879

W.A. NO.2398 OF 2010

SSI (CO)
TR(10/05/2018)



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