

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.07.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.13384 of 2013

in

W.M.P.Nos.1 of 2013

and

W.M.P.No.1 of 2014

H.B.Halan

.. Petitioner

Vs.

1. The Commissioner
Municipal Administration
Chepauk, Chennai - 600 005.

2. The Commissioner
Uthagamandalam
Municipality
Ooty
Nilgiri District.

3. The Inspector
Department of Vigilance and
Anti Corruption,
Nilgiri District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of the India praying to issue a writ of Certiorarified mandamus, calling for the records on the file of the 2nd respondent in Na.Ka.No.11143/2013/C1 dated 26/04/2013 and quash the same and further direct the 2nd respondent to disburse the retirement benefits forthwith to the petitioner.

For Petitioner : Mr.K.V.Sanjeev Kumar
for M/s.Royan Law Asso.

For Respondents 1 & 2 : Mr.P.Srinivas

For Respondent No.3 : Ms.A.Sri Jayanthi
Special Government Pleader.

O R D E R

The order of suspension dated 26.04.2013 placing the writ petitioner under suspension during the fag end of his retirement is under challenge in this writ petition.

2. The writ petitioner was appointed as Bill Collector in the 2nd respondent office and on account of certain allegations of misappropriation of funds of the municipality, the writ petitioner was placed under suspension.

3. The learned counsel appearing on behalf of the writ petitioner made a submission that the order of suspension on the same set of facts was earlier issued by the respondent and the writ petitioner challenged the said order of suspension before this Court. This Court allowed the writ petition and set aside the order of suspension in W.P.No.25638 of 2005. Pursuant to the order of this Court, the writ petitioner was reinstated into service and he served till the last date of his retirement. However, on the eve on his retirement, once again he placed under suspension by stating that criminal case is pending against him.

4. The learned counsel appearing on behalf of the respondents, made a submission that undoubtedly, the suspension order was issued on earlier circumstances and the said order was set aside by this Court and the petitioner was reinstated into service and allowed to continue in service till last date of his retirement. However, as per the fundamental rules, it is necessary for the competent authority to place the writ petitioner under suspension, during the pendency of the criminal case. Thus, there is no infirmity in the order of suspension and the terminal and pensionary benefits of the writ petitioner would be settled only based on the order to be passed by the competent criminal Court.

5. This Court is of the opinion that the disciplinary proceedings were initiated against the writ petitioner in respect of the allegation of misappropriation of the funds of the municipality. However, on the date of retirement, the competent authority is bound to place the employee under suspension, when the criminal case is pending against the writ petitioner.

6. The learned counsel for the respondent states that all the original records pertaining to the allegation are now handed over to the Vigilance Department and they are in the process of conducting the trial before this Criminal Court. This being the

factum of the case the departmental proceedings are kept in abeyance till the final outcome of the criminal case. Thus, there is no irregularity or illegality as such in respect of the decision taken by the respondents to keep the disciplinary proceedings in abeyance till the final disposal of the criminal case. Thus, it is left open to the writ petitioner to urge the competent criminal Court to speed up the trial in accordance with law. However, after the disposal of the criminal case, it is left open to respondent to continue the disciplinary proceedings if the writ petitioner has committed any such misappropriation or otherwise.

7. On conclusion of the criminal case, it is left open to the competent authority to proceed with the departmental disciplinary proceedings and conclude the same without any further delay.

8. With these observations, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are Closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AT

To

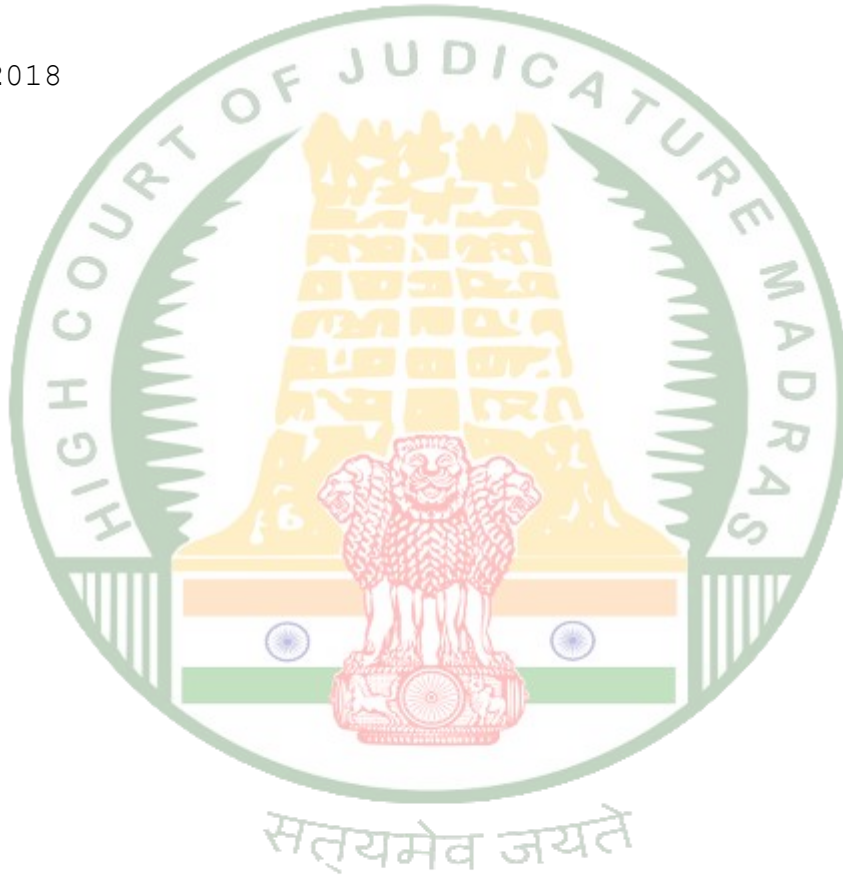
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3. The Inspector
Department of Vigilance and
Anti Corruption,
Nilgiri District.

+1cc to Government Pleader sr.no.49367
+1cc to M/s.Royan Law Associates sr.no.49174
+1cc to Mr.P.Srinivas, Advocate sr.no.49465

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