



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.2501 of 2018

S.Velu

... Petitioner

Vs.

1.The Secretary to Government of Tamilnadu,
Revenue Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Survey and Settlement,
Survey House,
Chepauk,
Chennai 600 005.

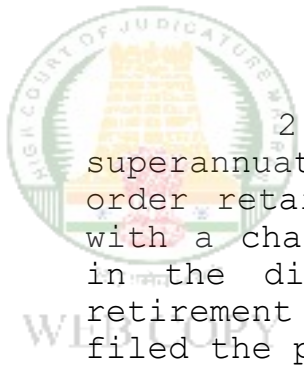
.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Suspension order vide proceedings in G.O.(2D)No.64 dated 26.02.2016, impugned Consequential Retention Order retaining the petitioner in service beyond his date of superannuation vide proceedings in G.O(2D)No.76 dated 26.02.2016 and impugned charge memo under 17(b) of Tamilnadu Civil Services (Discipline and Appeal) Rule vide proceedings in Letter No.19295/pani-4(1)/2015-16 dated 30.12.2015, issued by the first respondent and quash the same and consequently direct the respondents to settle all the retirement benefit to the petitioner with in a frame as fixed by this Court.

For Petitioner : Mr.R.Gowrishankar
For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The petitioner was promoted as Assistant Director of Survey and Land Records and posted at District Survey Office, Theni District. When he reached the age of superannuation on 29.02.2016. the petitioner was suspended from service. Earlier, in the year 2007, when he was working as Deputy Inspector of Survey at Kodaikanal Taluk, he was assigned with a work of scrutinizing the Survey Field Report submitted by the two Sub-Inspectors of Survey namely Gurusamy and Hasan Hanifa. The petitioner carried out his work and forwarded the same to the Thasildhar. But the proposal sent by the Thasildhar to the Government appears to have been rejected.



2. Based on the same, when the petitioner reached the age of superannuation on 29.02.2016, the petitioner was suspended. The order retaining the services was also issued. He was also issued with a charge memo on 02.02.2016. Thereafter, there is no progress in the disciplinary proceedings till date and the petitioner's retirement benefits have also not been disbursed. Therefore, he filed the present writ petition.

3. Questioning the issuance of the charge memo as well as the orders of suspension and the order of retaining in service, the present writ petition has been filed.

4. Heard the learned counsel on either side.

5. The learned counsel for the petitioner placed reliance on the order dated 08.01.2018 passed by this Court in W.P.(MD)No.1826 of 2016, wherein this Court granted relief to Hasan Hanifa.

6. This Court is of the view that there has been inordinate delay in issuing charge memo. The survey reports were submitted in the year 2007 and they were scrutinized by the petitioner in the year 2007. But after a lapse of almost nine years, the charge memo has been issued. There is absolutely no explanation for the said delay. The petitioner is obviously put to grave prejudice on account of such belated issuance of the charge memo. The Government has issued guidelines mandating that the disciplinary proceedings should not be initiated at the last minute. In this case, the petitioner reached the age of superannuation on 29.02.2016 and he was suspended from service on 26.02.2016.

7. One another contention raised by the learned counsel appearing for the petitioner is also having considerable force. It was the report of Gurusamy that was scrutinized by the petitioner herein. The said Gurusamy was permitted to retire. Therefore, the petitioner alone cannot be selectively targeted. This is a case of discrimination. Therefore, all the three grounds raised by the learned counsel for the petitioner namely, belated issuance of the charge memo for which there is no explanation, selective targeting and action being taken at the last moment are having considerable force. The petitioner is entitled to succeed. The order impugned in this writ petition is quashed. The writ petition is allowed. The benefits payable to the petitioner shall be settled within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government of Tamilnadu,
Revenue Department,
Fort St. George,
Chennai-600 009.

2. The Commissioner of Survey and Settlement,
Survey House,
Chepauk,
Chennai 600 005.

+1cc to M/S.R.Gowrishankar, Advocate SR.No. 54215

+1cc to M/S.Special Government Pleader in SR.No. 54886

W.P. (MD) .No.2501 of 2018
09.03.2018

rmi

JM/SV MMS/SAR 4/09.05.2018/3P/5C