



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.08.2018

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THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P (MD) No.18117 of 2018

and

W.M.P (MD) No.16017 of 2018

V.P.Pandian(Suspension and not allowed to retirement),
Inspector of Police,
15, Main Road,
Melathiruppanthuruthi, ,
Thiruvaiyaru Taluk,
Thanjavur District.

..Petitioner

Vs

1. The Director General of Police,
Office of the Directorate General of Police,
Mylapore,
Chennai.
2. The Inspector General of Police(L&O).,
The Inspector General of Police Office,
Trichy, Trichy District.
3. The Deputy Inspector General of Police,
Office of the Deputy Inspector General of Police,
Trichy, Trichy District.
4. The Superintendent of Police,
Office of the Superintendent of Police,
Trichy, Trichy District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned suspension order issued by the fourth respondent in his proceedings in D.O.No.38/2005, C.No.H2/402/2005, dated 14.1.2005 and the consequential order not permitting the Petitioner to retire from service issued by the third respondent in his proceedings in C.No.B1/0192/2005, R.O.73/2006, dated 27.4.2006 and the consequential impugned charge memo issued by the third respondent in his proceedings in PR.No.29/H2/2018 dated 29.5.2018.



For Petitioner :Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents :Mr.R.Sethuraman
Special Govt.Pleader

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ORDER

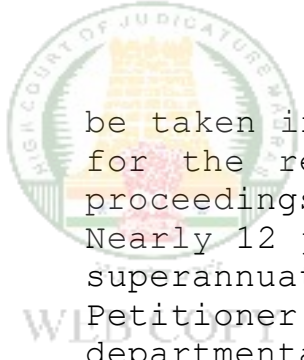
The Petitioner has come forward with this Writ Petition seeking to call for the records relating to the impugned suspension order issued by the fourth respondent in his proceedings in D.O.No.38/2005, C.No.H2/402/2005, dated 14.1.2005 and the consequential order not permitting the Petitioner to retire from service issued by the third respondent in his proceedings in C.No.B1/0192/2005, R.O.73/2006, dated 27.4.2006 and the consequential impugned charge memo issued by the third respondent in his proceedings in PR.No.29/H2/2018 dated 29.5.2018.

2.Mr.R.Sethuraman, learned Special Government Pleader takes notice for the respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The Petitioner was initially appointed as Grade-I Police Constable in the year 1972 and subsequently, promoted to the post of Head Constable in the year 1984 and finally promoted as Inspector of Police in the year 2002. The Petitioner attained the age of superannuation on 30.04.2006, however, he was not allowed to retire from service by proceedings, dated 27.4.2006 and he was placed under suspension. In view of the criminal proceedings pending, the departmental disciplinary proceedings did not commence, and on 24.12.2014, the criminal case ended in acquittal on the ground that the complainant has given a different version than what is stated in the complaint. Further, it is stated that there was no admission for illegal gratification and that all the witnesses have turned hostile and that the criminal Court acquitted him from the charges levelled against him. Hence, there is nothing prevented the respondents to proceed with the departmental enquiry. More so, there is a delay in issuing the charge-sheet.

4.It is the case of the respondents that even though no counter has been filed, the Criminal Court came to the conclusion that there is no direct evidence with regard to the offence of illegal gratification and based on the benefit of doubt, the petitioner was acquitted from the alleged offence.

5.The acquittal in the criminal case is not a bar for the disciplinary authorities to proceed with the departmental enquiry. <https://hcservices.courts.gov.in/services/> are expected to conduct the departmental enquiry on day-to-day basis without adjourning the matter beyond three days at any point of time. The verdict of the criminal court also



be taken into account while coming to a decision. There is no need for the respondents to wait for the decision in the criminal proceedings, and should have commenced the enquiry proceedings. Nearly 12 years have gone by from the date of attaining the age of superannuation. Further, the delay may create hardship to the Petitioner and that this Court expects speedy disposal of the departmental enquiry within a period of three months from the date of receipt of a copy of this order.

6.This Court makes it clear that if the complainant turns hostile or gives a different version, not only it amounts to complainant taking the Government Officials for a ride but also the Court, for which, the complainant will have to be proceeded with. In this case, there is no reason as to why the complainant has not been proceeded with for tendering a wrong statement. Since the Petitioner has been kept under suspension and also paid with the subsistence allowance which is not more than the provisional pension, which is otherwise entitled to, that shall continue till the proceedings are over. Once a decision is taken and in case of the Petitioner being found not guilty, the terminal benefits should be settled to him within a period of one month from the date of closure of the enquiry proceedings, if the guilt is not established.

7.With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Director General of Police,
Office of the Directorate General of Police,
Mylapore,
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2. The Inspector General of Police(L&O) .,
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Trichy, Trichy District.
3. The Deputy Inspector General of Police,
Office of the Deputy Inspector General of Police,
Trichy, Trichy District.



4. The Superintendent of Police,
Office of the Superintendent of Police,
Trichy, Trichy District.

+1cc to M/s.Ajmal Associates, Sr.No.79422
+1cc to Spl.Government Pleader Sr.No.79459

VSN

VB/SKN/SAR4/02.11.2018/4P/7C

ORDER MADE IN
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and
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