



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.20258 of 2018

V.Ganapathy Subramanian

... Petitioner

Vs.

The Commissioner of Police,
Tirunelveli City.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pass necessary orders allowing the petitioner to attain superannuation on 30.09.2018 on par with the case of one K.Yovan as referred to in the petitioner's representation dated 30.08.2018.

For Petitioner	: Mr.R.Anand
For Respondent	: Mr.K.Mu.Muthu
	Additional Government Pleader

O R D E R

The petitioner seeks for a Writ of Mandamus, directing the respondent to pass necessary orders for allowing the petitioner to attain superannuation on 30.09.2018 on par with the case of one K.Yovan as referred to in the petitioner's representation dated 30.08.2018.

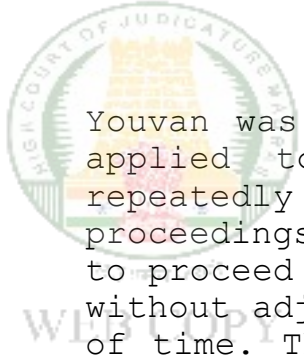
2.Mr.K.Mu.Muthu, learned Additional Government Pleader takes notice for the respondent.

3.By consent, the writ petition itself is taken up for final disposal.

4.The case of the petitioner is that he was placed under suspension on 17.02.2010, pursuant to the criminal case registered against him under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, r/w 109 IPC and the same is pending before the learned Chief Judicial Magistrate, Tirunelveli in S.C.No.56 of 2016 for trial.

5.According to the petitioner, though the charges levelled against him were baseless, he apprehends that he will not be allowed to retire from service, whereas the case of one Mr.K.Yovan has been considered sympathetically and he was allowed to retire and therefore, the petitioner herein shall also be considered on par with the said Yovan.

6.At this stage, this Court does not want to go into the matter in which, the case of Yovan was dealt with. Even assuming that



Youvan was wrongly allowed to retire, the same yardstick cannot be applied to the petitioner herein. Similarly, this Court has repeatedly held that the criminal proceedings and the department proceedings shall go on simultaneously. It is open to the respondent to proceed with the enquiry, if it is commenced, on day to day basis without adjourning the matter beyond seven working days at any point of time. The question whether the same yardstick should be applied as that of Yovan or not, can be considered only by the respondents, and, this Court cannot express any opinion on the above.

7. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner has made a representation dated 30.08.2018 seeking to allow him to retire from service and the said representation has not been considered so far. He further submitted that it would suffice if the representation of the petitioner is disposed of in accordance with law, within a time frame to be fixed by this Court.

8. In view of the above, this Court without going into the merits of the matter, directs the respondent to consider the petitioner's representation dated 30.08.2018 and pass appropriate orders thereon in accordance with law, on or before 28.09.2019, without prejudice to the criminal case and the departmental proceedings. It is made clear that this Court nowhere observed that the petitioner should be given similar treatment like that of Yovan.

9. In the result, this writ petition is disposed of. No costs.

Sd/

Assistant Registrar (Crl Side)

/True copy/

Sub Assistant Registrar (CS-II)

To
The Commissioner of Police,
Tirunelveli City.

+3cc to Mr.R.Anand, Advocate, SR.No.86191,86107
+1cc to M/s.Special Government Pleader, SR.No. 86375

W.P. (MD) No.20258 of 2018
24.09.2018

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