

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2053 of 2019

and

WMP.Nos.2308 & 2309 of 2019

N.Ragunathan

... Petitioner

Versus

The District Collector,
Kancheepuram District.

... Respondent

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in connection with the impugned orders passed by him in RC No.A3/4079/2008 dated 28.07.2008, RC No.A3/4079/2008 dated 30.07.2008 and also in RC No.A3/4079/2008 dated 06.08.2010 and quash the same and direct the respondents to superannuate the petitioner from service and grant him all consequential service and monetary benefits.

For Petitioner : Mrs.M.Muthappan

For Respondents 1-4 : Mr.A.N.Thambidurai
Spl.Govt.Pleader

O R D E R

The orders dated 28.07.2008, 30.07.2008 and also the order dated 06.08.2010 are under challenge in the present writ petition.

2. The writ petitioner was holding the post of Deputy Tahsildar and now he is under suspension. The writ petitioner was placed under suspension on the eve of his retirement and on the ground that the criminal case was registered against him by the Department of Vigilance and Anti Corruption in crime number.25/AC/2007/KM under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act 1988.

3. The allegations against the writ petitioner are certainly serious and in relation to certain corrupt activities and accumulation of wealth disproportionate to the known sources. However, such allegations are to be dealt with in accordance with law and the proceedings must reach its logical conclusion. Even if some administrative errors are committed in withdrawing the earlier sanctioned order and issuing a fresh sanctioned order would not be a ground to quash the entire allegations set out with the writ petitioner. In such an event, or on that ground the charges and order of suspension are quashed, then the very purpose and object of the departmental disciplinary proceedings with reference to the corrupt activities would be defeated.

4. Therefore, the Courts must have pragmatic approach in such matters. Even if the Competent Authorities have committed certain errors or mistake while issuing the original order, the same shall be corrected during the appropriate time and based on the correction or modification or issuance of corrigendum, the delinquent official cannot move a writ petition that the entire proceedings are to be quashed. Such administrative errors are common in every department and even in Judicial Department.

5. However, those administrative errors of misquoting or wrong quoting of provisions, facts and figures would not constitute the ground for quashing the entire departmental disciplinary proceedings. On initiation of departmental disciplinary proceedings, the main object is to continue the departmental proceedings, conclude the same without causing any undue delay. Undoubtedly, long pendency of departmental disciplinary proceedings would cause prejudice to the interest of the employees.

6. In the present case on hand, the writ petitioner is unable to get his terminal and pensionary benefits on account of the pendency of the criminal case as well as the departmental disciplinary proceedings. There is no impediment for the Departmental Disciplinary Authorities to continue the departmental disciplinary proceedings even during the pendency of the criminal case. Mere pendency of the criminal case is not a bar for the continuance of the departmental disciplinary proceedings. If the documents, materials are available with the Departmental Authority, they are at liberty to proceed with the disciplinary proceedings, conclude the same and pass final orders.

7. However, in the present case on hand, the writ petitioner had already reached the age of superannuation during the year 2008. Already the proceedings are pending for more than ten years. Thus, speedy disposal is certainly imminent and all the

Authorities concerned must take steps to conclude the proceeding both criminal as well as the departmental and pass final orders, based on the materials available on record in accordance with law.

8. However, quashing of the suspension order at this stage is certainly not preferable. In the event of quashing the suspension order as well as the other consequential orders, the writ petitioner must be allowed to retired from service. The allegations from writ petitioner are in related to corruption and accumulation wealth disproportionate to the known sources of his income, this Court is of the considered opinion that, the same must reach its logical conclusion.

9. Even the Hon'ble Supreme Court of India on many occasions reiterated that the corruption cases cannot be quashed merely on account of delay. This being the consistent view of the Constitutional Courts, quashing of the entire proceedings in respect of the allegations of corruption against public servant is certainly not preferable. However, the Competent Authorities must ensure that, all such proceedings are concluded within reasonable period of time and without causing any undue delay.

10. One aspect also to be noted that the writ petitioner must also cooperate for the earlier disposal of these proceedings. Filing writ petition after writ petition for the purpose of quashing the proceedings can never be encouraged. Contrarily, if the writ petitioner cooperates for early disposal of the departmental disciplinary proceedings, then the same can be considered and accordingly, the proceedings shall be disposed of at the earliest point of time.

11. Thus, the respondents are directed to take effective steps to dispose of both the criminal case as well as the departmental disciplinary proceedings as expeditiously as possible, preferably within six months and pass final orders enabling the writ petitioner to redress his grievances in the manner known to law.

12. With these observations, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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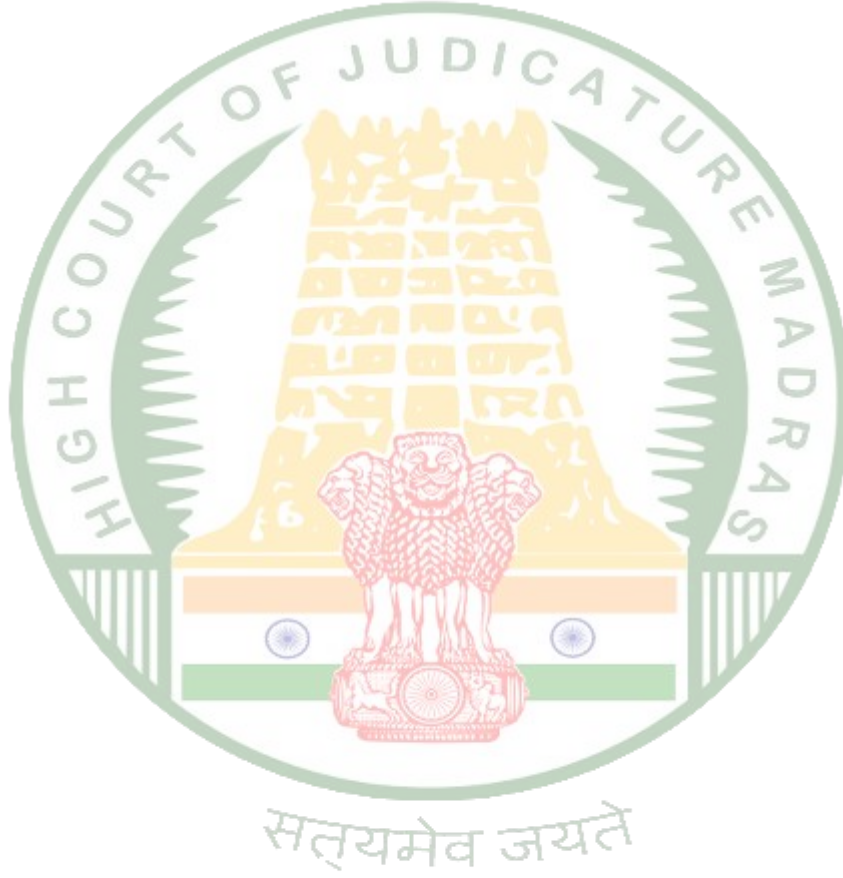
The District Collector,
Kancheepuram District.

+1cc to Mrs.M.Muthappan, Advocate, S.R.No.17970

+1cc to the Government Pleader, S.R.No.18259

W.P.No.2053 of 2019

RR (CO)
CS/29/03/2019



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