

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.10182 of 2009

V.Perumal

.. Petitioner

-vs-

1.The Director,
The Director of Municipal Administration,
Kuralagom, Chennai 108.

2.The Commissioner,
Municipal Office,
Attur Municipality,
Salem District. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the Charge Memo dated 29.05.2008 in Na.Ka.No.112/2008/C1 of the second respondent and quash the same and consequentially direct the respondents to pay all pensionary benefits with 18% of interest.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.M.Elumalai,
Government Advocate for R1

Mr.P.Srinivas,
Standing Counsel for R2

ORDER

The writ petition has been filed challenging the Charge Memo bearing Na.Ka.No.112/2008/C1 dated 29.05.2008 issued by the Commissioner, Municipal Office, Attur Municipality, Salem District, the second respondent herein and seeking a direction to the respondents to pay all pensionary benefits with 18% of interest to the petitioner.

2.Learned counsel appearing for the petitioner would submit that the petitioner was appointed as an Office Assistant in the second respondent Municipality on 13.02.1970 and he has been promoted as Bill Collector on 13.05.1974 and he retired from service on 31.05.2008 by rendering service of 38 years, 5 months and 9 days. However, one day prior to the date of retirement, the

petitioner was issued with a charge memo alleging that he has failed to collect the dues from the beneficiaries of low cost sanitation and N.R.Y. Scheme. According to the learned counsel appearing for the petitioner, when some of the beneficiaries were not in a position to pay the amount, the respondents cannot issue the charge memo against the petitioner and as a result, the petitioner has been getting only the provisional pension. Therefore, the impugned order is liable to go.

3.A detailed counter affidavit has been filed by the second respondent. Learned Government Advocate appearing for the first respondent and the learned Standing Counsel appearing for the second respondent would submit that the present writ petition ought not to have filed since the petitioner was allowed to retired from service on reaching the age of superannuation on 31.05.2008. When he was discharging his duties by collecting the dues from the beneficiaries, he was issued with the charge memo and therefore, the petitioner could have answered the charge memo. Since he was permitted to retire from service subject to the result of the disciplinary proceedings, he should not have come to this Court. In view of the pendency of this writ petition, the respondents are unable to conduct the enquiry.

4.It is an admitted fact that the petitioner was allowed to retire from service on 31.05.2008 and he was issued with a charge memo. In view of the pendency of the writ petition, he cannot escape from answering the charge memo. As the petitioner has been presently receiving the provisional pension, this Court, clearing the way for conducting enquiry, hereby directs the respondents to complete the enquiry on the charge memo issued against the petitioner and complete the entire process of enquiry including passing final order, within a period of five months from the date of receipt of a copy of this order.

5.Accordingly, the writ petition is dismissed. No costs.

-sd/-
Assistant Registrar

/TRUE COPY /

Sub-Assistant Registrar

vga

To

1.The Director,
The Director of Municipal Administration,
Kuralagom, Chennai 108.

2.The Commissioner,
Municipal Office,
Attur Municipality,
Salem District.

+1 cc to Government Plader SR.NO. 35299

+1 cc to MR.P.SRINIVAS Advocate SR.NO. 35282

+1 cc to MR.AR.NIXON Advocate SR.NO. 35190

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RD 12/06/2019



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