

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-02-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4344 of 2018
And
W.M.P.No.5344 of 2018

K.Gunasekaran

... Petitioner

Vs

1.Government of Tamil Nadu,
Represented by Agricultural Production
Commissioner And Principal Secretary
to Government,
Agriculture (AA-2) Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Joint Director of Agriculture,
Salem,
Salem District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the
Constitution of India praying for the issuance
of a Writ of Mandamus, directing the first respondent to relieve
the petitioner on 28.2.2018 on attaining superannuation without
prejudice to the disciplinary action initiated vide letter
No.39139/AA-2/2001-24 dated 8.8.2011.

For Petitioner : Mr.Bhasker

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader.

WEB COPY
O R D E R

The relief sought for in the present writ petition is
to direct the first respondent to relieve the petitioner on
28.2.2018 on attaining the age of superannuation without
prejudice to the disciplinary action initiated against the writ
petitioner in proceedings dated 8.8.2011.

2. The very relief, as such, sought for by the writ

petitioner in the present writ petition cannot be granted.

3. Allowing a Government employee retired from service or keeping the employee under suspension is an administrative decision taken by the competent authorities.

4. However, the writ petitioner cannot seek an order of relieving from this Court with a condition that he should be allowed to retire from service without prejudice to the disciplinary proceedings pending against him.

5. Admittedly, the disciplinary proceedings are pending against the writ petitioner. If so the seriousness or otherwise, all the allegations are to be considered by the competent authorities before taking any decision, either to allow the writ petitioner to retire from service or to place him under suspension with reference to the Rules in force.

6. However, all such decisions are administrative prerogative, which are all to be taken considering the facts and circumstances and the nature of the allegations set out against the writ petitioner.

7. This being the principles to be followed, the very relief sought for in the present writ petition is not only innocuous but also untenable. It is left open to the authorities concerned to take a decision on merits and in accordance with law.

8. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

Svn

To

1.The Agricultural Production
Commissioner And Principal Secretary
to Government,
Government of Tamil Nadu,
Agriculture (AA-2) Department,
Secretariat, Fort St. George,
Chennai-600 009.

WEB COPY

2.The Joint Director of Agriculture,
Salem,
Salem District.

+1cc to the Government Pleader, S.R.No. 11835

W.P.No.4344 of 2018

KJI (CO)
GN(26/02/2019)



WEB COPY