

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2019

CORAM

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

W.P.No.10179 of 2019

and

W.M.P.Nos.10742 & 10745 of 2019

Mr.G.Mathaiyan

..Petitioner

vs

1.The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

2.The Block Divisional officer,
Vandhavasi Block,
Thiruvannamalai District - 604 408.

3.The Commissioner,
Vandhavasi Panchayat Union,
Thiruvannamalai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records from the office of the 2nd respondent and quash the impugned order passed by the 2nd respondent herein dated 28.02.2019 Vide Na.Ka.No 5007/2016 NMS=1.

For Petitioner : Mr.N.Kumar Rajan

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader for R1 & R3

M/s.M.Lalitha, Government Advocate
for R2

W E B C O P Y
O R D E R

The order of suspension dated 28.02.2019, placing the writ petitioner under suspension on certain pending allegations is under challenge in the present writ petition.

2.The writ petitioner attained the age of superannuation on 28.02.2019 and the impugned order of suspension was issued on the last date of the retirement of the writ petitioner and his services are retained under the Fundamental rules. Challenging

the said order, the learned counsel for the writ petitioner states that the allegations are in relation to the year 2016 and the respondents ought to have concluded the enquiry by this time.

3.The fact remains that the earlier suspension order issued in the year 2016 was challenged by the writ petitioner by filing W.P.No.12755/2016 and the said writ petition was allowed and the writ petitioner was reinstated into service and allowed to work in the Department.

4.However, the writ petitioner attained the age of superannuation. That instigated the respondents to issue the present impugned order of suspension. The last day suspension orders cannot be revoked in view of the fact that in the event of revoking the order of suspension, the department is bound to settle the terminal and retirement benefits. In the event of allowing an employee to retire from service, then the punishment as contemplated under the Discipline and Appeal Rules cannot be imposed at all. Thus, the very purpose and object of the initiation of the disciplinary proceedings, would be defeated. Thus, the Courts would not interfere with the last day suspension orders and the retention of service of the Government employee after the date of retirement. Such orders are mandatory under the Rules and the only course available to the delinquent employee is to seek early disposal of the departmental disciplinary proceedings, then also, the same depends on the nature of allegations, quantum of evidence and documents to be examined and other factors.

5.This being the legal principles to be followed, this Court is of an opinion that the impugned order of suspension at this juncture, cannot be revoked and the writ petitioner is bound to face the enquiry and establish his innocence and otherwise by producing the documents and by adducing evidences.

6.It is to be borne in mind, the authorities on initiation of disciplinary proceedings against the employees must conclude the same as expeditiously as possible without causing any undue delay.

7.Delay in disposal of the disciplinary proceedings would cause prejudice to the interests of the employees also. In the event of long delay, the employees may not be in a position to get their terminal and retirement benefits, so as to settle their life during their fag end.

8.This being the grievances of the retired employees, the authorities competent must be vigilant and dispose of the departmental disciplinary proceedings, at the earliest possible and without causing any undue delay.

9. Under these circumstances, the respondents are bound to proceed with the departmental disciplinary proceedings and conclude the same as expeditiously as possible. The writ petitioner should also cooperate for the early disposal of the departmental disciplinary proceedings. In the event of any non-cooperation on the part of the delinquent officials, then the same shall be recorded by the disciplinary authority as well as by the Enquiry Authority in the proceedings itself.

10. Thus, the delinquent officials should cooperate and the authority competent must ensure that the disciplinary proceedings are disposed of at the earliest possible.

11. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thiruvannamalai,
Thiruvannamalai District.
2. The Block Divisional officer,
Vandhavasi Block,
Thiruvannamalai District - 604 408.
3. The Commissioner,
Vandhavasi Panchayat Union,
Thiruvannamalai District.

+1cc to Mr. N. Kumar Rajan, Advocate SR.No.32357

+1cc to Mrs. M. Lalitha, Advocate SR.No.33896

+1cc to Government Pleader SR.No.34040

W.P.No.10179 of 2019

EV (CO)
GMY (02/05/2019)