

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.16196 and 21542 of 2019  
and W.M.P.Nos.20735 & 20736 of 2019

R.Ashokan

..Petitioner in  
both WPs.

vs

1.State of Tamil Nadu rep. by its  
Secretary to Government  
Transport Department  
Secretariat, Chennai-600 009.  
in

...1<sup>st</sup> Respondent  
W.P.No.16196 of 2019

1.State of Tamil Nadu rep. by its  
Additional Chief Secretary to Government  
Home (Transport-II) Department  
Secretariat, Chennai-600 009.

...1<sup>st</sup> Respondent in  
W.P.No.21542 of 2019

2.The Transport Commissioner  
Chepauk, Chennai-5.

3.The Deputy Transport Commissioner  
Vellore Zone, Vellore-9.

4.Thiru.M.Jayasankaran  
Inquiry Officer, DTC, Villupuram  
Now working as Joint Transport Commissioner  
Madurai.

.. Respondents 2 to 4  
in both WPs.

Prayer in W.P.No.16196 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2<sup>nd</sup> respondent to consider and pass orders on the representation of the petitioner dated 30.05.2019 in the light of the Government order in G.O.(Ms.)No.144, Personnel and Administrative Reforms (N) Department dated 08.07.2007 and permit the petitioner to retire from service on his superannuation i.e., on 30.06.2019 without prejudice to the departmental proceedings.

Prayer in W.P.No.21542 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Government Order in G.O.(2D)No.205, Home (Transport-II) Department, dated 28.06.2019 on the file of the 1<sup>st</sup> respondent, quash the same and direct the 1<sup>st</sup> respondent to permit the petitioner to retire from service without prejudice to the departmental proceedings.

In both WPs.

For Petitioner : Mr.V.Elangovan

For R1 to R3 : Mr.R.S.Selvam  
Government Advocate

#### C O M M O N O R D E R

W.P.No.16196 of 2019 is filed for issuance of a Writ of Mandamus directing the 2<sup>nd</sup> respondent to consider and pass orders on the representation of the petitioner dated 30.05.2019 in the light of the Government order in G.O.(Ms.)No.144, Personnel and Administrative Reforms (N) Department dated 08.07.2007 and permit the petitioner to retire from service on his superannuation i.e., on 30.06.2019 without prejudice to the departmental proceedings.

W.P.No.21542 of 2019 is filed challenging the Government Order in G.O.(2D)No.205, Home (Transport-II) Department, dated 28.06.2019 on the file of the 1<sup>st</sup> respondent and directing the 1<sup>st</sup> respondent to permit the petitioner to retire from service without prejudice to the departmental proceedings.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3.

3.The case of the petitioner is that while the petitioner was working as Regional Transport Officer, Vaniyambadi, 3<sup>rd</sup> respondent issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Thereafter, the petitioner gave explanation denying the charges and Enquiry Officer was appointed. Even thereafter there is no progress in the departmental enquiry, the petitioner filed W.P.No.9076 of 2019 and this Court by order dated 28.03.2019 issued a direction to the respondents to proceed with the enquiry and conclude the same as expeditiously as possible preferably before the date of his superannuation. Though the said order was passed on 28.03.2019, however, the petitioner was not allowed to retire on 30.06.2019. While so, the 1<sup>st</sup> respondent passed an order in G.O.

(2D)No.196, Home (Transport-II) Department, dated 26.06.2019, placing the petitioner under suspension. Thereafter, the 1<sup>st</sup> respondent passed an order in G.O.(2D)No.205, Home (Transport-II) Department, dated 28.06.2019, not permitting the petitioner to retire from service and retained his service as per Section 56(1)(c) of the Fundamental Rules on the ground that departmental enquiry against the petitioner is pending. Challenging the same, the present two writ petitions are filed by the petitioner for the above stated reliefs.

4. Learned counsel appearing for the petitioner submitted that the petitioner has already obtained the order from this Court in W.P.No.9076 of 2019 for a direction to the respondents to complete the enquiry before his retirement. But the respondents have not completed enquiry, and retained his service. Therefore, the Government Orders passed by the 1<sup>st</sup> respondent is impermissible in law. However, this Court may issue a direction to the respondents to complete the enquiry and pass final orders, within a period of four weeks from the date of receipt of a copy of this order, so as to enable the petitioner to get the retirement benefits.

5. Learned Government Advocate appearing for the respondents 1 to 3 has also conceded the request made by the learned counsel appearing for the petitioner.

6. Considering the limited request made by the learned counsel appearing for the petitioner, since the enquiry is pending and the disciplinary authority has not passed final orders even after the petitioner attaining the age of superannuation and retained the service of the petitioner for the purpose of completing the enquiry, this Court hereby directs the respondents to complete the enquiry and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petitions are accordingly disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government  
State of Tamil Nadu  
Transport Department  
Secretariat, Chennai-600 009.

2.The Additional Chief Secretary to Government  
State of Tamil Nadu rep. by its  
Home (Transport-II) Department  
Secretariat, Chennai-600 009.

3.The Transport Commissioner  
Chepauk, Chennai-5.

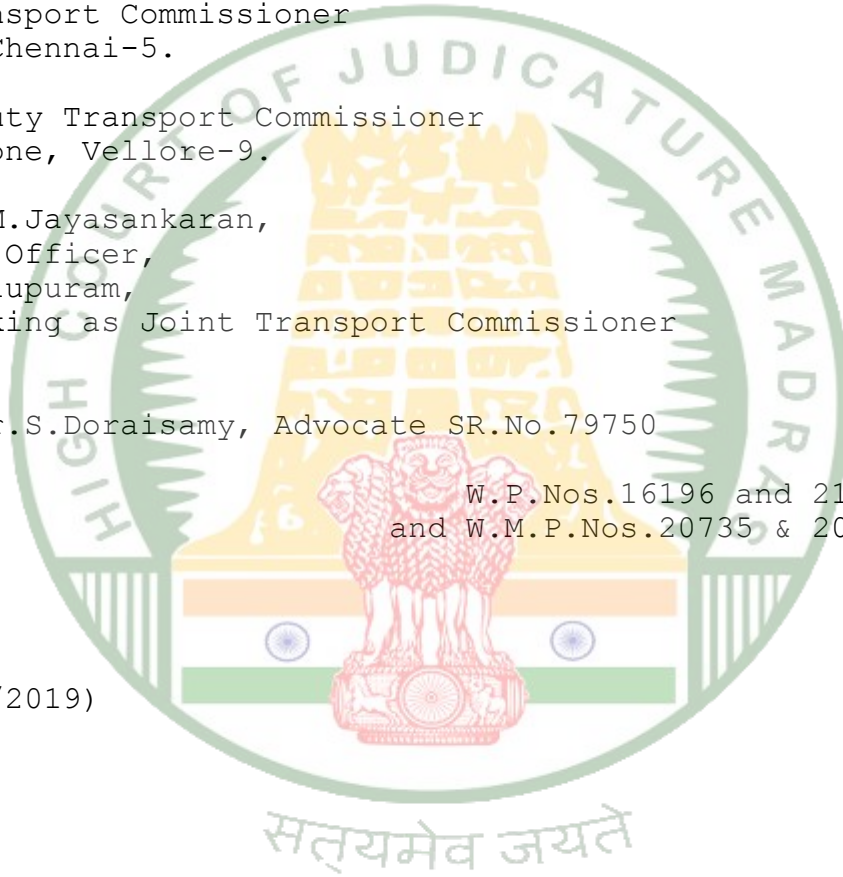
4.The Deputy Transport Commissioner  
Vellore Zone, Vellore-9.

5. Thiru.M.Jayasankaran,  
Inquiry Officer,  
DTC Villupuram,  
Now working as Joint Transport Commissioner  
Madurai.

+1cc to Mr.S.Doraisamy, Advocate SR.No.79750

W.P.Nos.16196 and 21542 of 2019  
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GMV (15/10/2019)



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