

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :01.07.2019

CORAM
THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.18420 of 2019
and
W.M.P.No.17756 of 2019

A.Wilfred Kitchingh

... Petitioner

Vs.

The District Collector,
Kancheepuram,
Kancheepuram District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent made in Rc.No.10972/2019/A3 (order of suspension and not permitted to retire) dated 30.04.2019 and quash the same and consequently direct the respondent to permit the petitioner to retire from service with effect from 30.04.2019 and disburse all of the petitioner retirement and service benefits.

For Petitioner : Mr.K.Venkatramani
Senior Counsel
For M/s.Selvi George

For Respondent : Mr.J.Pothiraj
Special Government Pleader

ORDER

The petitioner was appointed as Junior Assistant in 1997 and was posted to Kanchipuram District Revenue Unit. He was promoted as Tahsildar in April, 2013. The petitioner was due for retirement on 30.04.2019 on attaining the age of superannuation. On the eve of his retirement, the petitioner was placed under suspension on 30.04.2019 pending enquiry into the charges against him. An order was also passed not allowing the petitioner to retire on the same day i.e. 30.04.2019. The order placing the petitioner under suspension and also not permitting to retire are put to challenge in the present writ petition.

2.The learned Senior Counsel appearing for the petitioner would submit that the petitioner was innocent and therefore, he was unnecessarily implicated in a departmental proceedings. Certain averments were made in the affidavit filed in support of

the writ petition stating as to how the writ petitioner was not involved in the allegations which formed the basis of the passing of the impugned orders.

3.This Court is unable to appreciate the submissions made on behalf of the petitioner by the learned Senior Counsel for the reason that this Court, which is exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot undertake a judicial review of adjudicating the facts and circumstances of the case which forced administration to pass the impugned orders.

4.The suspension order is passed as prelude to framing of charges against the petitioner and such order cannot be interfered with unless the charges are framed and departmental action is initiated. In any event, it is too premature for this Court to intervene in such matters, particularly when the petitioner was not permitted to retire from service. Intervention at this stage would foreclose any further action to be pursued by the Department. Therefore, the balance of convenience is not in favour of the petitioner for this Court to entertain the writ petition at this stage.

5.Moreover, orders of this nature cannot be interfered with as a matter of routine when the administration thought fit to place the petitioner under suspension and also passed orders not allowing him to retire. It is always open to the petitioner to prove his innocence and come out unscathed in both the criminal proceedings or departmental action and certainly, it is not open to the petitioner to approach this Court and seek this Court's intervention at this stage. On the whole, the writ petition is too prematured and therefore, this Court is of the view that the writ petition is liable to be dismissed as not maintainable.

6.Therefore, the Writ Petition is dismissed as not maintainable, at the admission stage itself. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The District Collector,
Kancheepuram,
Kancheepuram District.

2.The Government Advocate,
High Court, Madras.

+lcc to Mrs.Selvi George, Advocate, S.R.No.54634
+lcc to the Government Pleader, S.R.No.54937

W.P.No.18420 of 2019

SPD (CO)

RRS (01/08/2019)



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