

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.31821 of 2019

and

W.M.P.No.32058 of 2019

P.Kulandaivelu

... Petitioner

Vs.

The Commissioner of
Employment and Training,
Chennai

... Respondent

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent with No.O.Na.2/39218/07 dated 31.07.2009 and No.O.Na.2/ 39218/2007 dated 25.09.2019 and to quash the same and consequently to direct the respondent to permit the petitioner to retire from service and to pay regular pension, Gratuity, Leave Salary, S.P.F. and other benefits.

For Petitioner : Mr.V.Ajayakumar

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

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The case of the petitioner is that the petitioner was working as Junior Engineer Officer and he joined service as Junior Assistant in the year 1980 and subsequently he was promoted as Assistant in the year 1984 and thereafter promoted as Junior Employment Officer. The petitioner was charged with misconduct on 12.09.2007 alleging that he took a bribe of Rs.500/- from a third person as illegal gratification and the petitioner was suspended on 17.09.2007. On the date of superannuation on 31.03.2009 however he was not allowed

to retire on the ground that the criminal case and departmental proceedings are pending.

3.Mr.V.Ajaykumar, learned counsel appearing for the petitioner submitted though the case was registered under Section 7 of Prevention of Corruption Act, 1988, simultaneously charge memo was issued on 31.07.2009. However, criminal case ended in acquittal in the year 2019. Immediately, steps have been taken to initiate departmental proceedings which is unsustainable one. For the past 12 years they did not take any action for concluding the departmental enquiry. Mere pendency of the criminal case is not a bar for concluding departmental enquiry.

4.The learned counsel appearing for the respondent submits that due to pendency of the criminal case, departmental proceedings was not in progress. After conclusion of criminal case, departmental proceedings was initiated and issued enquiry notice on 25.09.2019 for the charge memo issued under 17(b) of Tamil Nadu Civil Services(Discipline and Appeal) Rules on 31.07.2009. After disposal of the criminal case, again the departmental proceedings was initiated by the respondent.

5.There is no bar for concluding the departmental proceedings if a criminal case is pending. Even the criminal case ended in acquittal on 12.03.2019 itself and it appears that there is no appeal as against the said order. On 25.09.2019, the impugned order has been passed. The subject makes it clear that though the petitioner was placed under suspension, on the pendency of the criminal case, charge memo was issued on 31.07.2009. However it has been decided to conclude the departmental enquiry on 25.09.2019. Considering the facts and circumstances of the case, I am not inclined to interfere with the impugned order.

6.Accordingly, the writ petition is dismissed. However, if the departmental proceedings is pending for further long period, the petitioner may not get retirement benefits in time. Therefore, the respondent is directed to conclude the departmental enquiry within a period of three months from the date of receipt of a copy of this order and the petitioner is directed to participate in the departmental enquiry. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

lok

<https://hcservices.ecourts.gov.in/hcservices/>

To

The Commissioner of
Employment and Training,
Chennai

+1cc to Mr.V.Ajayakumar , Advocate SR.No. 94204
+1 cc to Government Pleader Sr.No. 94624

W.P.No.31821 of 2019

A.SK(04/12/2019)



WEB COPY