

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.03.2019

CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 28091 of 2018

M.Ravichandran
S/o Muthaiyan
District Officer,
Fire and Rescue Services Department
Thanjavur
Residing at
No.398/HIG2,
Tamil University Housing Unit Quarters,
Medical College Road, Thanjavur - 10.

..Petitioner

Vs

1. State represented by Additional Chief Secretary to the Home Department, Government of Tamil Nadu, Secretariat, Fort St. George, Chennai-600 009.
2. The Director, Fire and Rescue Service Department, Egmore, Chennai-8.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records, which culminated in the impugned order passed by the 1st Respondent in G.O.(2D), 283 Home (Police-XVII) Department dated 30.08.2018 and to quash the same, which is in gross violation of G.O.Ms.No. 144, Personnel and Administrative Reforms Department, dated 08.06.2007 and consequently directing the Respondents to permit the Petitioner to retire with all benefits within the period specified by this Court.

For Petitioner : Mr. S.R.Sumathy

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

O R D E R

The order of suspension issued by the 1st respondent in G.O (2D), 283 Home (Police - XVII) Department dated 30.08.2018, is under challenge in the present writ petition.

2. The petitioner is placed under suspension on the ground that on enquiry by the Director of Vigilance and Anti-Corruption Department, allegation of bribe against the writ petitioner is contemplated. The writ petitioner was due to retire from service on 31.08.2018, and an order of suspension was issued a day prior to the date of superannuation.

3. The learned counsel for the writ petitioner states that the order of suspension issued in the verge of retirement is untenable. This apart, the writ petitioner has got unblemished record of service and the allegation now contemplated is absolutely false and baseless.

4. This Court is of the considered opinion that an order of suspension is issued under Rule 17(i) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and the contemplation of charges are based on pending enquiry. In the present case on hand, enquiry was conducted by the Director of Vigilance and Anti-Corruption, into the allegations of bribe against the writ petitioner as contemplated. Thus, necessarily the writ petitioner is placed under suspension, in view of the fact that he is due to retire from service on 31.08.2018. An employee against whom, the Vigilance and Anti Corruption Department enquiry is contemplated, the competent authority is bound to place the said employee under suspension and his services are to be retained, as per the Fundamental Rules.

5. This being the procedures to be adopted, when an employee is facing an enquiry on the date of retirement, this Court is of the opinion that there is no infirmity as such in respect of the order of suspension passed. However, on initiation of the disciplinary proceedings, the authorities competent must ensure that such disciplinary proceedings are to be concluded without causing any delay. Long pendency of the disciplinary proceedings would cause prejudice to the employees also. In the present case on hand, the writ petitioner would be deprived of his terminal and retirement benefits, if the proceedings or enquiry is kept pending for an unspecified period. Thus, early disposal of the disciplinary proceedings are certainly warranted.

6. Suspension is not a punishment. If the Discipline and Appeal Rules contemplates, an employee can place under suspension on certain circumstances. Once the authority competent is of the opinion that the complaints registered against the employees are punishable under the provisions of the Rules, then, such an employee shall be placed under suspension. During the period of suspension, the writ petitioner would be entitled to get the subsistence allowance by producing all necessary certificates or undertaking as per the procedure. In view of the fact that the writ petitioner is placed under

suspension and an enquiry was conducted by the Director of Vigilance and Anti Corruption Department into the allegations of bribe as contemplated against the employee there is no reason whatsoever to interfere with the order of suspension.

7. Accordingly, the present writ petition stands dismissed. No costs. Consequentially, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm/ssb

To

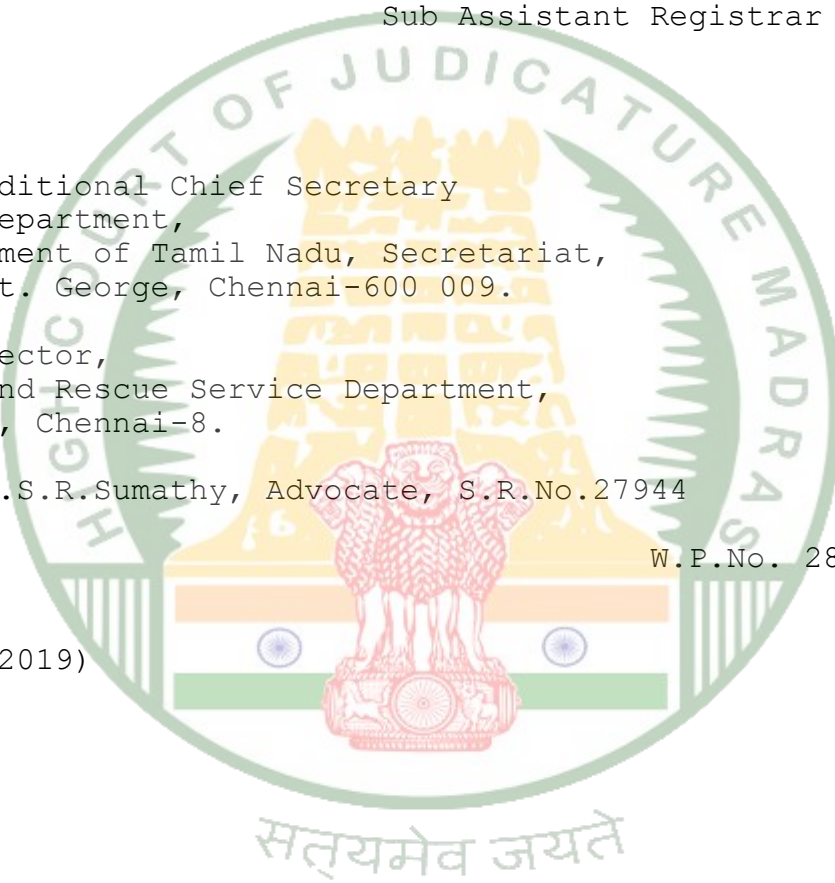
1. The Additional Chief Secretary
Home Department,
Government of Tamil Nadu, Secretariat,
Fort St. George, Chennai-600 009.
2. The Director,
Fire and Rescue Service Department,
Egmore, Chennai-8.

+1cc to Mr.S.R.Sumathy, Advocate, S.R.No.27944

W.P.No. 28091 of 2018

SKV (CO)

RRS (10/05/2019)



WEB COPY