



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.07.2019
CORAM

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

WEB COPY

W.P.(MD).No.470 of 2019

P. Perumal

.. Petitioner

Vs.

1.The Superintendent of Police,
O/o. the District Police Office,
Tuticorin District.

2.A. Muthulakshmi

..Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating with the order of the 1st respondent made in Na.Ka.No.H3/037992/2018, dated 30.11.2018 and quash the same as it is arbitrary and illegal and in consequence to direct the 1st respondent to permit the petitioner to retire under Voluntary Retirement Scheme / Rule by accepting his letter dated 25.08.2018.

For Petitioner : Mr.R. Suriyanarayanan

For Respondent No.1 : Mr. M. Pandiarajan
Additional Government Pleader

O R D E R

This Writ Petition has been filed to quash the impugned order passed by the 1st respondent in Na.Ka.No.H3/037992/2018, dated 30.11.2018 and consequently, direct the 1st respondent to permit the petitioner to retire under Voluntary Retirement Scheme / Rule, by accepting his letter dated 25.08.2018.

2. According to the petitioner, due to his illness, he has submitted a letter, dated 25.08.2018, to the first respondent through proper channel and requested to permit him to go under Voluntary Retirement Scheme and the said request made by the petitioner was rejected by the 1st respondent on the frivolous ground by stating that the petitioner had second wife viz., Muthulakshmi and the said complaint is pending against the petitioner.



3. According to the petitioner, the said reason stated in the said impugned order is totally incorrect and there is no iota of the truth in the allegation made against the petitioner. Further, to that extent, he has made an additional affidavit before this Court by stating that no second marriage is conducted, while first wife is subsisting, and he has also made a representation, dated 13.07.2019 to the first respondent by explaining that the aforesaid allegation against him before the authority is incorrect. Further, the said impugned order is passed by the first respondent without granting an opportunity of hearing to the petitioner to put forth his case. Therefore, the petitioner seeks to quash the proceedings and direct the respondents to pass appropriate orders within the time limit to be fixed by this Court.

4. The learned Special Government Pleader appearing for the respondents would submit that if the said allegation against the petitioner is incorrect, he can place all the materials before the authority considered and the said explanation will be duly considered by them.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. In the light of the aforesaid submission of the authorities, prima facie this Court has satisfied that the authorities have not provided an opportunity of hearing to the petitioner, while passing the impugned order. Further, the petitioner denied the said allegation made by the respondents in the impugned order that the petitioner had married one Muthulakshmi as a second wife and the complaint is pending, he is not entitled to retire under the Voluntary Retirement Scheme. By denying the opportunity of the petitioner to disprove the said allegation, there is no hesitation to quash the impugned order passed by the first respondent, dated 30.11.2018, and accordingly, this Writ Petition is allowed. Further, the first respondent is directed to consider the petitioner's explanation, dated 13.07.2019 and pass fresh orders on merits and in accordance with law, within a period twelve weeks from the date of receipt of a copy of this order, after providing an opportunity of hearing to the petitioner. No costs.

Sd/-

Assistant Registrar

// True Copy //



To

The Superintendent of Police,
O/o. the District Police Office,
Tuticorin District.

+1cc to Mr.R.SURIYANARAYANAN, Advocate, SR.No.76056

+1cc to the Spl.Govt.Pleader Sr.No.76409

trp
W.P. (MD) .No.470 of 2019
18.07.2019

NA (30.07.2019) 3P :4C