BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.06.2019
CORAM:
THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
WP(MD).No.9096 of 2016 and
WMP(MD).No.7238 of 2016

P. Ramji : Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by the Principal Secretary,
Revenue Department,
Fort. St. Geroge,
Chennai - 9.

2.The Commissioner of Revenue Administration,
Chepauk,
Chennai - 5

3.The District Collector,
Collectorate,
Theni, Theni District. : Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of suspension in Roc.No.10000/2016/A1, dated 29.04.2016 and the impugned charge memo in Na.Ka.No.10000/2016/A1, dated 29.04.2016 on the file of the respondent no.3 and quash the same as illegal and consequently, to direct the respondent no.3 to allow the petitioner to retire with all service and monetary benefits within the time stipulated by this Court.

For Petitioner : Mr.Ashwin Rajasimman
for T.Lajapathi Roy
For Respondents : Mr.A. Muthukaruppan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to call for for the records pertaining to the impugned order of suspension in Roc.No.10000/2016/A1, dated 29.04.2016 and the impugned charge memo in Na.Ka.No.10000/2016/A1, dated 29.04.2016, on the file of the 3rd respondent and quash the same and consequently, to direct the 3rd respondent to allow him to retire with all service and monetary benefits, within the time frame fixed by this Court.

2. According to the petitioner that the aforesaid charge memo is liable to be quashed on the ground that the said impugned order of suspension has been passed on the last date of retirement.

3. The third respondent filed a detailed counter affidavit, wherein it has been stated that the petitioner worked as a Special Thasildar (Social Security Scheme) from 01.04.2012 to 31.03.2013. The Inspector of Audit, Local Fund Audit Wing, Theni have worked out implementation of Ulavar Padukappu Thittam and spending of funds and raised audit objections to the tune of Rs.59,01,841/-. On scrutinizing the audit reports, the Special Deputy Collector (Social Security Scheme), Theni, vide his Letter No.H6/12337/2016, dated 15.04.2016, reported that out of the total sum noted in the audit report, Rs.50,33,626/- to be settled by taking action at office level and the remaining Rs.8,68,215/- needs to be recovered from the individual by fixing responsibility on them. Based on the reports, a memo was sent to the individual by letter vide Letter No. No.A/10000/2016, dated 18.04.2016, from the District Collector, Theni requesting him to submit "Settlement of Audit Objection" letter obtained from the Local Fund Audit Department on or before 25.04.2016. In the meanwhile, the Special Thasildar (Social Security Scheme), Uthamapalayam, in his letter No.ROC/5162/2015, B1, dated 26.04.2016 reported that rectification report for the pending Audit paras were prepared and sent to the Inspector of Local Fund Audit, Theni. At the same time, the petitioner was retired from service on 30.04.2016 on attaining the age of superannuation, but, no report was received from the Local Fund Audit Department dropping the Audit Objections in response to the rectification reported submitted by the Special Tahsildar (Social Security Scheme) on the audit objections. Therefore, the charges under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, were framed against individual, causing notional loss to the Government in Theni District and the suspension order came to be passed by the respondent. Consequently, he was not permitted to retire from service based on the order of the District Collector, dated 30.04.2016. Even as on date Rs.53,09,163/- is pending for settlement by the Local Fund Audit Department. Challenging the said order, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, the suspension order has been issued on the last date of retirement of the petitioner. Therefore, the impugned order is liable to be quashed.

5. The Additional Government Pleader appearing for the respondents would submit that notional loss caused to the Government from the Social Security Scheme was brought to light of the audit report in the year 2015, pointing out huge loss of money and hence, initiated the disciplinary proceedings against the petitioner and also stated that the communication was received from the Special Tahsildar (Social Security Scheme), on 26.04.2016, reported that ratification report for the pending Audit paras were prepared and sent to the Inspector of Local Fund Audit, Theni, as on date, no report was received from them. Due to the retirement of the

petitioner on superannuation, the present impugned order was passed by the 3rd respondent.

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

7. By considering the submission of the parties and on the averments found in the counter affidavit, it is made clear that the enquiry is still pending before the respondent. A perusal of the said counter also shows that the Special Tahsildar, has preferred a rectification report for the pending Audit paras to the Inspector of Local Fund Audit, Theni. Therefore, the allegations by the 3rd respondent against the petitioner with regard to objections of the Department, the petitioner can also place all the materials before the authority to rectify the audit objection raised by the audit.

8. Therefore, by considering the aforesaid facts, the 3rd respondent is directed to obtain relevant records from the concerned Department and to furnish the copy to the petitioner so as to enable him to submit his explanation within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the petitioner is directed to submit his explanation within a period of two weeks thereafter. If any explanation is submitted by the petitioner, the third respondent shall consider the same and complete the enquiry, as early as possible, in any event, not later than four months from the date of receipt of receipt of explanation.

9. It is needless to say that if any report is received from the concerned Special Tahsildar with regard to the rectification report from the Local Fund Audit Officer, the copy of the same shall also be furnished to the third respondent.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. Principal Secretary,
Revenue Department,
Fort. St. Geroge,
Chennai - 9.

2.The Commissioner of Revenue Administration,
Chepauk,
Chennai - 5

3.The District Collector,
Collectorate,
Theni, Theni District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-69333[F] dated 18/06/2019)
+1 CC to SPL GP (SR-69448[F] dated 18/06/2019)

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