



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

WEB COPY

W.P. (MD) No.4690 of 2018

and

W.M.P. (MD) Nos.4751 & 4752 of 2018

Christopher

... Petitioner

vs.

1) The District Collector,
Kanyakumari District,
Nagercoil.

2) The District Revenue Officer,
Kanyakumari District,
Nagercoil.

3) The Revenue Divisional Officer,
Padmanabhapuram,
Thucklai,
Kanyakumari District.

4) The Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.

... Respondents

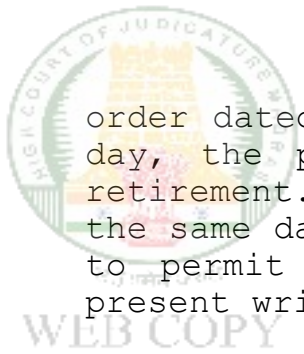
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining of the impugned order passed by the 4th respondent in A5/15341/2013 dated 31.05.2014 and to quash the same and direct the 4th respondent to permit the petitioner to retire and to disburse his terminal benefits within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.M.Jeyakumar,
Special Government Pleader

O R D E R

The petitioner herein, who was appointed as Village Assistant on 15.09.1975, has been implicated for an offence under Sections 408 & 420 of I.P.C. in Crime No.51 of 2013 dated 24.05.2013. In view of the petitioner's involvement in the crime, the fourth respondent herein had placed the petitioner under suspension by the impugned



order dated 31.05.2014 and through another order passed on the same day, the petitioner was not permitted to retire on the date of retirement. Incidentally, the petitioner's date of retirement is on the same day when the suspension order as well as the order refusing to permit him to retire were passed. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioner would rely upon G.O.Ms.No.144, Personal and Administrative Reforms(N) Department dated 08.06.2007 and submitted that the suspension and the order refusing to permit him to retire cannot be passed on the same date when the petitioner was due to retire. Even otherwise, he would submit that though an F.I.R was registered in the year 2013, the investigation is yet to be completed and therefore, the fifth respondent may not be justified in preventing the petitioner from retiring, indefinitely.

3.The learned Special Government Pleader appearing on behalf of the respondents, by relying upon the Fundamental Rules 56(1) submitted that since the petitioner is involved in criminal case, there is no provision that could enable him to retire. He would also submit that it is in view of this, the petitioner was placed under suspension.

4. I have given careful consideration to the submissions made by the respective counsel appearing on either side.

5. The conduct of the Government superior authorities in placing the Government servants either under suspension or refusing to permit them to retire on the last minute of their retirement has been time and again been reprimanded by the Courts. Apparently, in view of such orders being passed, the Government had issued G.O.Ms.No.144, Personal and Administrative Reforms(N) Department dated 08.06.2007 stipulating certain guidelines to be followed to avoid suspension of the government servants at the verge of their retirement. One such guideline of the aforesaid G.O. reads as follows:-

"5. The Government direct that the following guidelines be followed to avoid suspension orders on the date of retirement of the Government servants in super session of orders issued in the reference second read above.

(i) The Disciplinary authority should not resort to last minute suspension of the Government servants (i.e) on the date of their retirement. A decision either to allow Government servant to retire from service or suspend him from service should be taken well in advance (i.e.) three months prior to the date of retirement on superannuation and orders issued in the matter and such a decision should not be taken on

<https://hcservices.ecourts.gov.in/hcservices/> of retirement, if final orders could not be



issued in a pending disciplinary case against a Government servant retiring from service due to administrative grounds."

6. A bare reading of the aforesaid guideline reveals that the Disciplinary Authority should not mandatorily resort to either last minute suspension or decision to refuse the government servants to retire. Such a decision should be taken well in advance atleast three months prior to the date of retirement superannuation. In the instant case, though an F.I.R. was registered on 25.04.2013, the fifth respondent herein had chosen to wait till the petitioner reached his age of superannuation and on the last day prior to his retirement, the impugned order came to be passed which is against the guidelines prescribed under G.O.Ms.No.144, Personal and Administrative Reforms(N) Department dated 08.06.2007. On this short ground, it can be held that the impugned order itself cannot be sustained.

7. In the light of the above, the impugned order passed in A5/15341/2013 dated 31.05.2014 the file of the fourth respondent is hereby quashed. Consequently, the fourth respondent herein shall permit the petitioner to retire and also disburse his terminal benefits as expeditiously as possible, in any event, within a period of three(3) months from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1) The District Collector,
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Nagercoil.
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4) The Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.

+1 CC to Mr.M.R.SREENIVASAN, Advocate (SR-103781[F] dated
06/12/2019)

+1 CC to SPL GP (SR-103833[F] dated 06/12/2019)

Order made in
W.P. (MD) No.4690 of 2018
Dated:05.12.2019

MK (19.12.2019) 4P 7C