



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.13138 of 2014

and

M.P.[MD]No.1 of 2014

WEB COPY

C.Thangaraj

... Petitioner

Vs.

1.The Joint Commissioner (CT),
Trichy Division,
Commercial Department,
Trichy.

2.The Assistant Commissioner,
Singarathope Assistant Circle,
Kajamalai,
Trichy - 20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings passed by the first respondent vide proceedings Rc.No.4759/2014, B4 dated 25.06.2014 and the consequential order passed by the same authority vide Rc.No.4759/2014-B4 dated 27.06.2014 and quash the same and consequently direct the respondents to permit this petitioner to retire from his service with all terminal benefits.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

O R D E R

The order of suspension and retaining the services of the writ petitioner beyond the date of superannuation on 30.06.2014 in proceedings dated 27.06.2014 is under challenge in the present writ petition.

2.The writ petitioner was appointed as Surveyor in Survey Department on 17.08.1984 on consolidated pay and subsequently absorbed as permanent employee in the Commercial Tax Department in the year 1997. The writ petitioner was promoted to the post of Assistant and on the last stage of his retirement on 30.06.2014, the petitioner was placed under suspension and he was not allowed to retire from service.

3.Learned Counsel for the writ petitioner states that a criminal case registered against the writ petitioner in Crime Services Court, Chennai, is a family dispute and more specifically with



reference to the family properties. Thus, the criminal case is no way connected with the official duties of the writ petitioner and therefore, the authorities ought to have allowed the writ petitioner to retire from service.

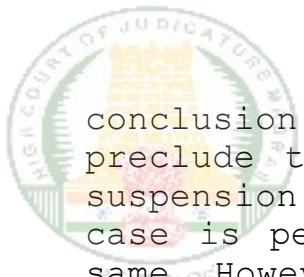
4.Learned Counsel for the petitioner is of an opinion that whenever a criminal case involving the official duties are pending, then alone the public servant can be placed under suspension and not otherwise.

5.The very proposition mooted out by the learned Counsel for the petitioner is untenable and not in consonance with the Rules in force. The public servant, both inside and outside office is bound to maintain the conduct. The Tamil Nadu Government Servants Conduct Rules provides various misconducts including the registration of criminal case against the public servants. Rule 14 also states that whenever a criminal case is registered a public servant shall be placed under suspension. It is not necessary that the criminal case must be in connection with the performance of the official duty. Even on account of some private disputes, if a criminal case is registered, then also actions are to be initiated by the competent authority against the public servant.

6.It is a settled principle of law that a public servant facing criminal charges cannot be allowed to retire from service. Even if the criminal cases are unconnected with the performances of duties and responsibilities, the public servant cannot be allowed to retire from service as per the Rules in force. Only after the disposal of the case, the case of the writ petitioner is to be considered for settlement of terminal and pensionary benefits. Learned Counsel for the writ petitioner states that criminal case is pending. Thus, the writ petitioner had to face the criminal trial and only after the disposal of the criminal case, he can submit application to the competent authority for settlement of pensionary and terminal benefits and not otherwise.

7.Yet another ground raised by the learned Counsel for the writ petitioner is that earlier for the same allegations, the departmental disciplinary proceedings were initiated and punishment was imposed. Thus, once again, placing the writ petitioner under suspension is unnecessary.

8.Simultaneous proceedings are permissible. Even during the pendency of the criminal case, departmental disciplinary proceedings can be quashed if materials are available for the purpose of disposal of the departmental proceedings. Thus, in the present case, competent authorities have to proceed with the departmental proceedings and conclude the same and impose punishment with reference to the proved charges. However, the



conclusion of the departmental disciplinary proceedings would not preclude the competent authority from placing the employee under suspension on the last date of his retirement, if the criminal case is pending against him. The allegations may be one and the same. However, the fact remains that the criminal case on the last of retirement was pending before the competent Court of law. Thus, the department authorities have to wait for the disposal of the criminal case and after the disposal, all proceedings against the writ petitioner may be concluded for the purpose of settlement of the terminal benefits.

9.This being the principles to be followed, the writ petitioner may take steps for the early disposal of the criminal case and after the disposal, he is at liberty to approach the competent authorities for the purpose of settling his terminal and retirement benefits as per the Rules. Accordingly, this Court is of the opinion that there is no infirmity as such in respect of the impugned order passed in the present writ petition.

10.Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

MR

To

1.The Joint Commissioner (CT),
Trichy Division,
Commercial Department,
Trichy.

2.The Assistant Commissioner,
Singarathope Assistant Circle,
Kajamalai,
Trichy - 20.

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-82032[F] dated 16/08/2019)

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13.08.2019

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