



WEB COPY

W.P.(MD)No.1771 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.1771 of 2014
and M.P.(MD).No.1 of 2014

P.Subbaiah

... Petitioner

Vs.

The Agricultural Production Commissioner and
Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Government of Tamil Nadu,
Fort St.George, Chennai-600 009.

... Respondent

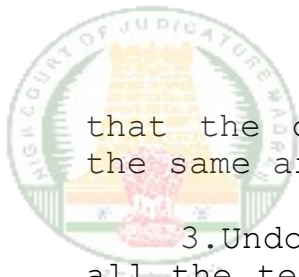
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to G.O.(3D) No.168 Agriculture (AA8) Department dated 25.09.2013 and G.O.(3D) No.171 Agriculture (AA8) Department dated 30.09.2013 and quash the same and consequently pass an order directing the respondent to allow the petitioner to retire with all benefits available to the person in the normal circumstances.

For Petitioner : Mr.B.A.Muruganantham
For Respondent : Mr.K.Mu.Muthu,
Additional Government Pleader

ORDER

The order of suspension dated 25.09.2013 as well as the order dated 03.09.2013 not allowing the writ petitioner to retire from service and retirement of his service under the Fundamental Rules, are under challenge in the present writ petition.

2.The writ petitioner was appointed as Assistant Engineer in the Agricultural Engineering Department and subsequently promoted to the post of Assistant Executive Engineer. On account of an allegation of certain corrupt activities, a criminal case was registered against the writ petitioner by the Department of Vigilance and Anti Corruption. The criminal case registered against the writ petitioner is pending before the competent criminal court of law .The learned counsel for the writ petitioner states that the disciplinary proceedings initiated against the writ petitioner had already been concluded and therefore, the writ petitioner must be paid the terminal and retirement benefits. The learned counsel for the writ petitioner contented that the writ petitioner is entitled for the terminal and retirement benefits and on account of the fact



that the departmental disciplinary proceedings were concluded and the same are to be settled in favour of the writ petitioner.

3.Undoubtedly, an employee on retirement, is entitled to get all the terminal and retirement benefits as per the rules in force. However, if an employee is facing the corruption charges in a criminal case registered by the Department of Vigilance and Anti Corruption under the Prevention of Corruption Act, then he is not entitled to get the terminal and retirement benefits till the criminal case is disposed of by the competent criminal court of law. The allegation of corruption are to be viewed seriously and the corruption charges cannot be quashed even on the ground of delay. This being the settled principles by the Supreme Court of India, the allegation of corruption deserves no misplaced sympathy or leniency.

4.The learned counsel for the writ petitioner states that one person who has involved in some corrupt activity was allowed to retire from service, this court is of the considered opinion that a wrong precedent or an illegality committed by the competent authority cannot be a ground for this court to consider the case of the writ petitioner. In other words, an illegality can never be followed as a precedent and if at all, any such employee was allowed to retire contrary or in violation of the service rules, suitable actions are to be initiated against the officials who passed such an order allowing such an accused to retire from service. Contrarily, the court cannot take it as an example and grant the relief in respect of the person against whom the criminal case is filed under the Prevention of Corruption Act and is pending.

5.The learned counsel for the writ petitioner further states that the writ petitioner is suffering from certain serious ailment in his throat. Such personal grievance or ailment cannot be a ground to seek exoneration from the criminal proceedings or the settlement of retirement and pensionary benefits. The terminal and pensionary benefits are settled from and out of the tax payers money. If the Government employee who has involved in corruption allegation cannot be provided with any such leniency or sympathy. This Court cannot consider such grievance or ailment in respect of the Officer, who is facing corruption charges in a criminal case registered under the Prevention of the Corruption Act.

6.The grounds raised by the writ petitioner on merits cannot be adjudicated in a writ proceeding under Article 226 of the Constitution of India. The learned counsel for the writ petitioner states that the writ petitioner kept an amount of Rs.22,000/- in his pocket. However, the money was kept for the purchase of certain materials. Now the writ petitioner admitted the fact that he kept an amount of Rs.22,000/- in his pocket for purchase of materials. All these grounds can be adjudicated by way of submitting evidence and by way of submitting documents and by way of evidence. However, the



High Court cannot go into the merits and demerits of the allegation set out in the criminal charge-sheet as well as the reply given by the writ petitioner in this writ petition. All these disputed facts are to be adjudicated in a proper manner with reference to the documents available and with reference to the deposition, if any, made before the competent Criminal Court of Law.

7. Under these circumstances, the order of suspension passed during the eve of the retirement of the writ petitioner as well as the consequential order passed in the Fundamental Rules retaining the service of the writ petitioner by not allowing him to retire, is very much in consonance with the Service Rules in force and in accordance with the legal principles settled by the Constitutional Courts.

8. Thus, the writ petitioner is entitled to claim terminal and pensionary benefits after the disposal of the criminal case filed under the Prevention of Corruption Act and after the disposal of the departmental disciplinary proceedings in all respects.

9. In this view of the matter, there is no infirmity as such in respect of the impugned order passed. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To
The Agricultural Production Commissioner and
Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Government of Tamil Nadu,
Fort St. George, Chennai-600 009.

+1 CC to M/s.SPL GP (SR-81954[F] dated 16/08/2019)
+1 CC to M/s.I.MD.SURAJUDEEN MEERA, Advocate (SR-82039[F] dated 16/08/2019)

W.P. (MD)No.1771 of 2014
and
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