



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.19252 of 2015

S.Arumugam

... Petitioner

-Vs-

1.The Director of Handlooms & Textiles
Kuralagam, 2nd Floor,
Chennai-600 108.

2.The Assistant Director of Handlooms & Textiles,
Nagercoil, Kanyakumari District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to allow the petitioner to retire from his service and sanction the retirement benefits.

For Petitioners: Mr.S.Satheeshkumar

For Respondents: Mr.D.Muruganantham
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to allow the petitioner to retire from his service and sanction the retirement benefits.

2.The learned counsel for the writ petitioner states that the writ petitioner was working as Senior Inspector, Co-operative Society and attained the age of Superannuation. However, the petitioner was not allowed to retire from service and placed under suspension, on account of the fact that a criminal case is pending against him and the departmental disciplinary proceedings were also initiated. The learned counsel for the writ petitioner further states that the writ petitioner is aged about 76 years old and therefore, early disposal of all these cases are necessary. The writ petitioner is unable to get terminal and pensionary benefits for the past so many years, despite the fact that he attained the age of superannuation.



3. It is an unfortunate situation where the long pendency of the cases is affecting the service rights of the employee. This Court is of the considered opinion that the competent authority on initiation of departmental disciplinary proceedings must ensure that all such proceedings are concluded as expeditiously as possible. Keeping the matters pending for long years, undoubtedly will cause great agony to the employees, who attained the age of superannuation. Though this Court is able to understand the mental agony of the writ petitioner, granting the relief is to be considered based on the legal principles. In certain cases, the principles of equity can be applied if the facts and circumstances warrant. However, in all such cases, such principles cannot be applied, in view of the fact that the writ petitioner is facing a criminal case with reference to the allegations of misappropriation of the public funds. In a case where there is an allegation of misappropriation or corruption, the Courts cannot show any leniency or misplaced sympathy. Therefore, certain facts and circumstances are relevant for the purpose of even applying the principles of equity. Therefore, the present case has to be considered with reference to the facts and circumstances.

4. Admittedly, the writ petitioner attained the age of superannuation and not allowed to retire, on account of the pendency of the criminal case, departmental disciplinary proceedings as well as the surcharge proceedings under the Tamil Nadu Co-operative Societies Act. The allegation against the writ petitioner is misappropriation of the funds of the co-operative Society. Therefore, the writ petitioner has to face the trial and only after the disposal of the criminal case as well as the other proceedings, he would be entitled to get all the terminal benefits.

5. It is for the writ petitioner to take steps for the early disposal of the criminal case now pending before the Principal Sessions Judge, Nagercoil. Therefore, the petitioner has to approach the District Court concerned for the purpose of the speedy disposal of the criminal revision petition filed by the prosecution side. As far as the departmental disciplinary proceedings are concerned, the authorities competent also expedite the enquiry as early as possible and subject to the final disposal of the criminal case. At the out set, all such proceedings initiated against the writ petitioner can be proceeded with simultaneously and final order can be passed at the earliest possible, so as to avoid further hardship to the writ petitioner and considering the fact that he is already aged about 76 years.

6. This being the factum, the writ petitioner is at liberty to approach the Court concerned for the early disposal of the criminal case and simultaneously approach the competent authority for the early disposal of the departmental disciplinary proceedings initiated against him, so also the surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act.



7. With the above observation, this writ petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Director of Handlooms & Textiles
Kuralagam, 2nd Floor,
Chennai-600 108.

2. The Assistant Director of Handlooms & Textiles,
Nagercoil, Kanyakumari District.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.75088

W.P. (MD) No.19252 of 2015

11.07.2019

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TR (24.07.2019) 3P 4C