



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.2643 of 2013

and

M.P.(MD)No.1 of 2013

A.Murugan
Junior Assistant (Under Suspension)
Nagercoil Municipality,
Kanyakumari District. ... Petitioner

Vs

1. The Commissioner of Municipal Administration,
Chennai - 600 005.
2. The Commissioner,
Nagercoil Municipality,
Kanyakumari. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in Roc.No.16543/2011/K1 dated 21.04.2011 and the consequent impugned order of the first respondent in Roc.No.16543/K1 dated 28.04.2011 and quash the same and consequently direct the respondents herein to allow the petitioner to retire from service with terminal benefits and all other attendant benefits.

For Petitioners : Mr.H.Thayumana Swamy
For R1 : Mr.D.Muruganantham
Additional Government Pleader
For R2 : Mrs.S.Srimathy,
Special Government Pleader

ORDER

The order of suspension dated 21.04.2011, placing the writ petitioner under suspension on contemplation of grave charges as well as the consequential order dated 28.04.2011, not allowing the writ petitioner to retire from service, are under challenge in the present writ petition.

2.The writ petitioner was employed as Junior Assistant and on account of certain serious allegations, the writ petitioner was placed under suspension on the eve of his retirement. The due date for retirement was 30.04.2011. The writ petitioner was not allowed to retire from service and his services were retained under the Fundamental Rule 56(1)(c).



3.The learned counsel for the writ petitioner states that the writ petitioner is innocent of the allegations and he had not committed any misconduct or offence. This apart, the parties to the lis had admitted the fact that the enquiry proceedings had already been concluded and the enquiry officer submitted his report to the competent authority. However, no final decision has been taken on account of the fact that the writ petition is pending for the past about 6 ½ years.

4.The learned counsel for the petitioner further contends that the second respondent has committed serious illegality for which the charges are now framed to penalize the writ petitioner.

5.However, all these factors are to be considered by the competent authority while considering the merits of the case with reference to the files available. This Court cannot provide any findings in respect of the merits of the case as the departmental disciplinary proceedings are yet to be concluded. The writ petitioner is under suspension for long period. Placing an employee under suspension for a prolong period, certainly not desirable. On initiating a departmental disciplinary proceedings, the authorities competent must ensure that the proceedings are disposed of within a reasonable period of time and without causing any delay. Long pendency of a disciplinary proceedings would cause prejudice to the interest of the employee also. Due to the pendency of the disciplinary proceedings, the writ petitioner is unable to get his terminal and pensionary benefits. However, the fact remains that the enquiry had already been completed and the disciplinary authority has to pass final orders on the departmental disciplinary proceedings.

6.This being the factum, this Court is not inclined to revoke the order of suspension. However, the respondents are directed to consider the merits as well as the materials available on record and pass final orders in the departmental disciplinary proceedings preferably within a period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is also directed to co-operate with the earlier disposal of the departmental disciplinary proceedings by availing the opportunity provided to him.

7.With this observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

sd/
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)



To

1.The Commissioner of Municipal Administration,
Chennai - 600 005.

2.The Commissioner,
Nagercoil Municipality,
Kanyakumari.

+1 CC to SPL GP (SR-68298[F] dated 12/06/2019)

+1 CC to Mr.S.M.S.JOHNNEY BASHA, Advocate (SR-68149[F] dated
12/06/2019)

+1 CC to Mr.H.THAYUMANASWAMY, Advocate (SR-68532[F] dated
13/06/2019)

W.P. (MD) No.2643 of 2013

and

M.P. (MD) No.1 of 2013

11.06.2019

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