

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35457 of 2004

P.Natarajan

...Petitioner

Vs

1.The Government of Tamil Nadu,
rep.by the Secretary to Government,
Home (Transport II) Department,
Fort St.George, Chennai - 600 009.

2.The Transport Commissioner,
Chennai - 600 005.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of writ of certiorarified mandamus to call for the impugned G.O.2(D) No.393 Home (Tr.II) dated 28.11.2003 and the consequential impugned G.O.2(D) No.394 Home (Tr.II) dated 28.11.2003 passed by the 1st respondent and to quash the same and direct the respondents to retire the petitioner with effect from the date of retirement 30.11.2003 and to compute and pay all the retirement benefits including pension etc. in accordance with law to the petitioner.

For Petitioners : Mr.P.Prem Kumar

For Respondents : Mr.K.Magesh

Special Government Pleader

सत्यमेव जयते

O R D E R

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus, to quash the order passed by the first respondent dated 28.11.2003 and for consequential relief.

2. It is the case of the petitioner that he was working as a Regional Transport Officer in the respondent Transport Department. While the petitioner was in service, he was placed under suspension alleging criminal proceedings and grave allegations contemplated against him. Further, he was not

permitted to retire from his service after attaining the age of superannuation on 30.11.2003, but, he was retained in service until the charges levelled against him were concluded and final orders were passed thereon by the competent authority. Challenging the same the present writ petition.

3. The learned counsel for the petitioner would submit that the charge levelled against the petitioner alleging criminal proceedings were not proved and the same was dropped by the first respondent on 05.01.2012. Further, other two charges levelled against the petitioner under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, the enquiry officer completed the enquiry in the year 2013 itself and held that the charges levelled against the petitioner and other co-delinquent officers were not proved. The Government disagreed with the findings of the enquiry officer, further representation was called for from the petitioner in the year 2020, which is against the law. Hence, all the benefits sought for by the petitioner may be granted.

4. The learned Special Government Pleader for the respondents submitted that though the enquiry officer had given a finding that the charges levelled against the petitioner were not proved, however, the Department has taken his own reason to disagree with the findings of the enquiry officer. Hence, the respondent Department has called for further representation from the petitioner and other co-delinquent. The petitioner submitted his further representation on 07.11.2020 and the representation of the co-delinquent is being awaited for further action. Hence, there is a delay in passing the final order.

5. Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents and perused the materials available on record.

6. On a careful perusal of the records, it would reveal that the enquiry officer had given a finding that the charges levelled against the petitioner and other co-delinquent officers were not proved. Aggrieved over the same, the Department called for further representation from the petitioner and other co-delinquent officer in the month of July 2020 and the same was also admitted by the learned counsel for the petitioner. However, the petitioner submitted his representation only on 07.11.2020 and the co-delinquent officer has not submitted the explanation so far.

7. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court directs the respondents to pass final orders within a period of four weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy//

ms Sub Assistant Registrar

To

1.The Secretary to Government,
The Government of Tamil Nadu,
Home (Transport II) Department,
Fort St.George,
Chennai - 600 009.

2.The Transport Commissioner,
Chennai - 600 005.

+1cc to Mr.P.Premkumar, Advocate, SR.No.39511

+1cc to Mr.K.Magesh, Special Government Pleader, SR.No.39832

W.P.No.35457 of 2004

SR II(CO)
KKV/14/12/2020

सत्यमेव जयते

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