

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9395 of 2020 &
W.M.P.No.11485 of 2020

D.Lawrence

... Petitioner

Vs.

1.The Principal Secretary to Government
Department of Home, Prohibition and
Excise Department, Secretariat
Fort St.George
Chennai 600 009.

2.The Director General of Police
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

3.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai 600 007.

4.The Joint Commissioner of Police
West Zone, Greater Chennai Police
Vepery, Chennai 600 053.

5.The Accountant General (Accounts and
Entitlement), AG's Office Complex
361, Anna Salai, Teynampet
Chennai 600 018.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the files relating to the impugned orders made in Rc.No.PR(1)/35259/WZ/209 WZO No.263/2020 dated 29.04.2020 and in RC.No.PR(1)/35259/WZ/2019 WZO No.264/2020 dated 30.04.2020 on the file of the 4th respondent quash the same and consequently direct the respondents 1 to 4 to permit the petitioner to retire from his service with effect from 30.04.2020 and the respondents

to pay the pensionary benefits with all monthly and service benefits with 12 percentage interest per annum with effect from 30.04.2020.

For Petitioner : Mr.G.Mutharasu
For Respondents : Mr.R.A.S.Senthilvel
Additional Govt.Pleader

O R D E R

The matter is taken up through web hearing.

2. The case of the petitioner is that he was originally appointed as a Police Constable in 1984 and subsequently promoted to the post of Sub Inspector of Police. According to the petitioner, the third party has given a false complaint against him the State Human Rights Commission alleging that on 25.01.2012 he and another policeman took the third party with his son to the police station for enquiry and detained them illegally. An enquiry was conducted by the State Human Rights Commission and after enquiry an order was passed on 21.01.2018 recommending to the Government of Tamil Nadu to recover an amount of Rs.1,00,000 from the petitioner and the other policemen and also recommended for initiation of departmental proceedings.

3. Challenging the recommendation of the Commission, the petitioner is stated to have filed W.P.No.34501 of 2019 and the Division Bench which heard the matter, granted an order of interim stay in respect of the recommendation of the Commission.

4. While the matter stood thus, when the petitioner was due for retirement on 30.04.2020, an order was passed on 29.04.2020 suspending the petitioner from service and not allowing him to retire in view of the pendency of the writ petition against the recommendation of the State Human Rights Commission. The said suspension order is under challenge in this writ petition.

5. This court is unable to appreciate as to how the present writ petition is maintainable when the very initiation of the departmental proceedings against the petitioner is still not been decided by the Division Bench in the pending writ petition.

6. Learned counsel for the petitioner would submit that in view of the stay order of the Division Bench, it is not open to the respondents to suspend him from service.

7. This court is not inclined to accept the said submission for the simple reason that the issue of the disciplinary action to be taken against the petitioner has not been finally decided and in the absence of final verdict, the petitioner cannot resist any order to be passed by the Government on the subject matter.

8. In any event, since the substantial issue is pending in the aforementioned writ petition, the suspension order is a fall out of the recommendation of the Human Rights Commission and the petitioner herein cannot independently maintain the present writ petition. The petitioner, if so advised, can work out his remedies in the pending writ petition and not by filing this writ petition.

9. Hence the writ petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

msh/kst
To

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+1 cc to M/s.G.Mutharasu Advocate sr24822

W.P.No.9395 of 2020

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