IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 16.12.2020

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THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.18825 of 2020
&
W.M.P.Nos.23399 & 23400 of 2020

G.V.Narayanamoorthy ...Petitioner

Vs.

1.Government of Tamil Nadu,
rep by Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai - 600 009.

2.The Inspector - General of Registration,
Chennai - 600 0028.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the records on the file of the second respondent relating to the Revised Charge Memo No.11497/B1/2005 dated 28.05.2008 and memo No.11497/B3/2005 dated 10.05.2018, quash the same and to direct the respondents to permit the petitioner to retire from service with all consequential benefits on 30.11.2008 and to disburse pensionary and retirement benefits with interest.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.T.M.Pappiah, Spl.G.P.

ORDER

The present writ petition has been filed challenging the charge memorandum dated 28.05.2008 issued against the petitioner, in discharge of his duties, when he was working as Sub-Registrar. According to the petitioner, pursuant to the charge memorandum, Enquiry Officer was appointed and enquiry was conducted and she submitted a report on 27.04.2015 holding that the charges are not proved.

2.The Disciplinary Authority namely the second respondent herein issued show cause notice to the petitioner on 10.05.2018 disagreeing with the findings of the Enquiry Officer, holding that there was sufficient material to prove the charges against the petitioner. The disagreement note which was issued to the petitioner was replied by him on 07.06.2018 and 23.08.2018. The petitioner immediately soon after the issuance of the charge memorandum, attained the age of superannuation on 24.11.2018, but was not allowed to retire and was placed under suspension.

3.The grievance of the petitioner in this Writ Petition is that despite the representation of the petitioner against the disagreement order of the Disciplinary Authority dated 10.05.2018, till date no final orders have been passed. Therefore, the petitioner is challenging the entire disciplinary proceedings from the charge memorandum onwards on the ground that there was an inordinate delay in completion of the disciplinary action.

4.Mr.M.Ravi, learned counsel for the petitioner would strenuously contend that the petitioner is now 69 years old and has been suffering without any adequate income because of the pendency of disciplinary action for the last 12 years. According to the learned counsel when the Courts have held that inordinate and unexplained delay by itself, would constitute prejudice to the delinquent Officer and disciplinary action in such circumstances had to be interfered with by the Courts.

5.Although there appears to be some substance in the submission made by the learned counsel for the petitioner, yet for the reason that the petitioner participated in the disciplinary proceedings and also submitted his representation against show cause notice issued by the disciplinary authority dated 10.05.2018, in the fitness of things, the petitioner has to await the final orders to be passed against him. In the interregnum, it is not open to the petitioner to challenge the charge memorandum without knowing as to what the disciplinary authority is proposing to do when he passes final order in the disciplinary matter.

6.Having concluded as above, this Court is also of the view that the disciplinary proceedings against the petitioner has been unduly prolonged. The fact of the matter is that when the petitioner has submitted his explanation on 07.06.2018 itself to the show cause notice issued by the disciplinary authority on 10.05.2018, there cannot be any valid justification for the second respondent for keeping disciplinary action still pending against the petitioner, causing grave hardship to him at his old age. It is unfortunate that the petitioner having attained age of superannuation as early as on November, 2008, this Court is unable to see any reason as to why the disciplinary action has been hanging fire as on date.

7.In these circumstances, this Court is of the considered view that the second respondent is directed to pass final orders in the disciplinary proceedings as expeditiously as possible and not beyond 6 weeks from the date of receipt of copy of this order.

8.The writ petition is therefore disposed of at the admission stage itself by directing the second respondent to pass final orders in the disciplinary proceedings pursuant to the charge memorandum dated 28.05.2008 within a period of 6 weeks from the date of receipt of copy of this order. It is made clear that the disciplinary action being unduly delayed for 12 years, the time stipulated herein is to be strictly adhered to and in case no final orders are passed, the disciplinary action deem to have been lapsed against the petitioner. While passing the final order, the second respondent is also directed to take into consideration the old age of the petitioner and non-completion of disciplinary action against him promptly.

9.Therefore, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.Government of Tamil Nadu,
rep by Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai - 600 009.

2.The Inspector - General of Registration,
Chennai - 600 0028.

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