

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.2366 of 2014

M.Ramasamy

... Petitioner

-vs -

1. The Secretary to Government,
School Education department,
FSG,
Chennai - 9.

2. The Director of Elementary Education,
Chennai - 6.

3. The District Elementary Education Officer,
Karur.

4. The Additional Assistant Elementary Educational Officer,
Krishnarayapuram,
Karur District. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for all the connected records in the issuance of placing the petitioner under suspension vide Procs. Rc. No.4768/A2/2005, dated 28.09.2005 of the 3rd respondent and thereafter another impugned order of not permitting the petitioner to retire from service when the petitioner reached superannuation on 30.06.2008 A.N. vide proceedings Rc. No.4768/A2/2005, dated 30.06.2008 of the 3rd respondent and to quash them; consequently to direct the 3rd respondent to regularise the suspension period from 28.09.2005 to 30.06.2008 A.N. as on duty and to sanction the duty pay and allowance (of course, deducting the subsistence allowance already paid) with all other attendant benefits that accrued during this period and thereafter to sanction the regular pension with its attachment on and from 30.06.2008 A.N. to date (of course, deducting the provisional pension so far drawn and disbursed) with other allowances and its attendant benefits such as arrears etc. together the other residual terminal benefits so far not yet sanctioned and disburse to this petitioner.

For Petitioner : Mr.AL. Namasivayam
For Respondents: Mr.S.Suresh Kumar,
Government Advocate.

ORDER

(This case has been heard through video conference)

This Writ Petition has been filed to call for the records in respect of suspension order issued to the petitioner vide Proceedings Rc. No.4768/A2/2005, dated 28.09.2005 and Proceedings Rc. No.4768/A2/2005, dated 30.06.2008, wherein not permitted to retire from service on the date of superannuation, both issued by the 3rd respondent and for consequential direction to regularise the period of suspension and for payment of his terminal benefits.

2. It is the case of the petitioner that the petitioner served as Head Master in Panchayat Union Primary School in Thondamanginam, Krishnarayapuram Union, Karur District. While so, due to certain alleged irregularities, a criminal case was filed pursuant to which a charge memo was also issued and he was suspended from service and further more, he was not permitted to retire on the age of superannuation on 30.06.2008. Accordingly, his pay was restricted to provisional pension and the terminal benefits are due to him. Hence, this writ petition has been filed for a direction to conclude the disciplinary proceedings and disburse his terminal benefits.

3. Heard Mr.AL. Namasivayam, learned counsel for the petitioner and he would submit that disciplinary proceedings against the petitioner is pending from the year 2005. Till date, disciplinary proceedings against the petitioner has not been concluded. Hence, he seeks for a relief that a direction may be issued to the respondents to complete the said disciplinary proceedings within a time frame as stipulated by this Court and to disburse the terminal benefits due to the petitioner.

4. Mr.Suresh Kumar, learned Government Advocate appearing for the respondents submits that the issue raised in this petition has been settled by the Hon'ble Supreme Court in Noida Entrepreneurs Assn. - Vs - Noida & Ors. (2007 (10) SCC 385). Further, he would submit that the petitioner committed grave financial irregularities and only on exoneration from the charges, he would be entitled to receive the terminal benefits. However, he fairly conceded that this Court may issue a direction to the respondents to complete the disciplinary proceedings within a time frame fixed by this Court.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. Though very many contentions have been raised by the learned counsel on either side, however, it is an undisputed fact that disciplinary proceedings are pending against the petitioner since the year 2005. Though the petitioner ought to have superannuated in the year 2008, but for the pendency of the disciplinary proceedings, he has not been allowed to retire. More than a decade and a half has passed since the institution of the disciplinary proceedings against the petitioner. It is incumbent on the respondents to complete the disciplinary proceedings against the delinquent as expeditiously as possible. However, in the present case, as stated above, the proceedings has been pending for more than a decade and a half. However, it is trite that unless the disciplinary proceedings are concluded, the terminal benefits due to the petitioner cannot be settled. In the above circumstances, this Court is of the considered view that the respondents should be directed to conclude the disciplinary proceedings pending against the petitioner within a prescribed time.

7. Accordingly, this writ petition is disposed of directing the respondents to conclude the disciplinary proceedings pending against the petitioner within a period of six months from the date of receipt of a copy of this order, in accordance with law. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

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To

1. The Secretary to Government,
School Education department,
FSG,
Chennai - 9.

2. The Director of Elementary Education,
Chennai - 6.

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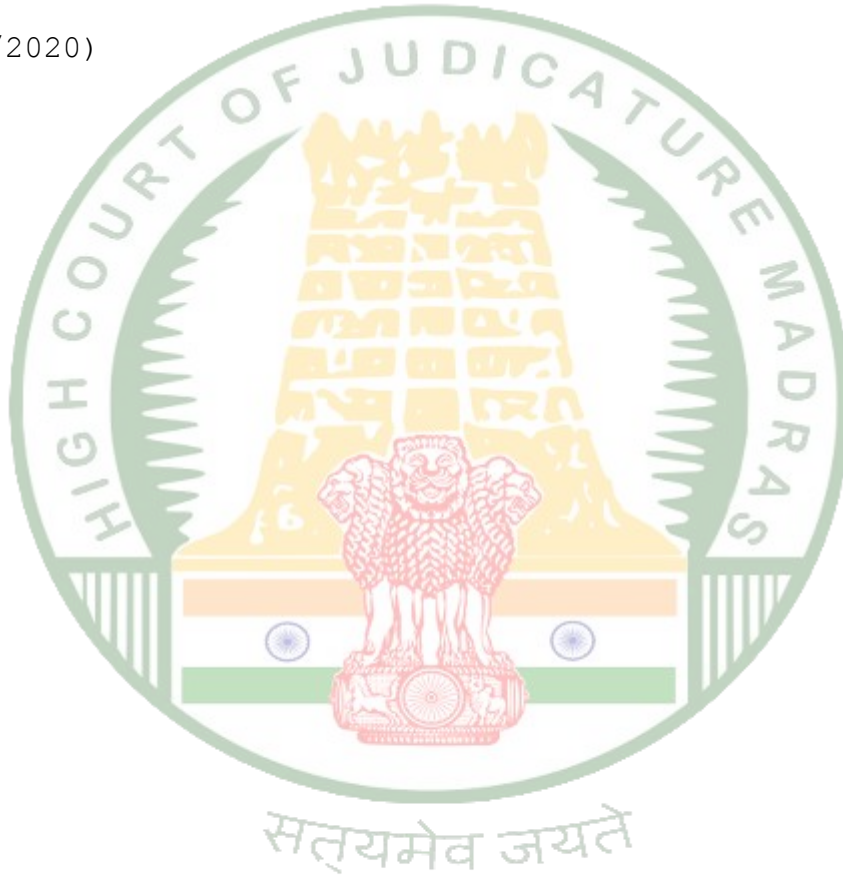
3. The District Elementary Education Officer,
Karur.

4. The Additional Assistant Elementary Educational Officer,
Krishnarayapuram,
Karur District.

+1 cc to M/s.AL.Namasivayam, Advocate Sr.No. 35380
+1 cc to The Government Pleader, Sr.No. 35452

W.P. No.2366 of 2014

SS (CO)
RMP (27/11/2020)



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