

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7493 of 2017

Dr. Siva Ilango

... Petitioner

Vs.

1. The Chairman,
Perunthalaivar Kamaraj Krishi Vigyan Kendra (PKKV)
Kurumbapet, Puducherry.
2. Programme Co-ordinator,
Perunthalaivar Kamaraj Krishi Vigyan Kendra (PKKV)
Kurumbapet, Puducherry.
3. The Director,
Agricultural Training and Research Institute-ATARI,
Bangalore. ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order dated 27.02.2017 issued by the Chairman, PKKV, Government of Puducherry, Office of the Secretary (Agriculture), Puducherry, vide Ref. 1232/Secy(Agri)/PA/2017 and quash the same and consequently directing the respondents to disburse the retirement benefits immediately from the date of retirement i.e. 28.02.2017.

For Petitioner : Mr.Usharaman

For Respondents : Mrs.G.D.Jeyarany,
Gov. Advocate, Pondy
(for R1 and R2)
Dr.Sr.Sudaram (for R3)

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O R D E R

Challenging the suspension order passed against the petitioner by the first respondent in No. 1232/Secy(Agri)/PA/2017 dated 27.02.2017, the writ petition has been filed.

2. The brief case of the writ petitioner is as follows.

The petitioner was appointed as a Junior Assistant on 18.04.1975 in the first respondent society and on the date of retirement on superannuation i.e. on 28.02.2017, he had worked as Junior Accounts cum Administrative Officer and he placed a blemish less service till his retirement. On the day before his retirement i.e. on 27.02.2017, he was served a copy of suspension order by the Programme Coordinator, with immediate effect, pursuant to the Rule 10(1) of the Central Civil Services (Classification, Control and Appeal) Rules 1965. Challenging the above said order, this writ petition has been filed by the petitioner.

3. In the counter affidavit filed by the 2nd respondent on behalf of the first respondent, it is stated as follows.

i) As per the Recruitment Rules governing the post of Junior Accounts Officer, notified by the Finance Department, Government of Puducherry, any individual eligible to be promoted as Junior Accounts Officer is to have officiated in the cadre of Superintendent Gr.I in the feeder cadre and further is supposed to have passed Accounts test (Lower and Higher) conducted by the Government of Puducherry on periodical basis.

ii) The petitioner was not in the feeder cadre and has not passed even the test of Subordinate Officer Test or Executive Officer Test, which is essential to the post of Superintendent, which is a subordinate post for the post of Junior Accounts Officer.

iii) The Governing Body under the Chairmanship of a political person has acted in undue haste and by way of colorful and arbitrary exercise of the responsibilities vested with it, has over looked all the essential requirements and choose to grant promotion to the petitioner as Junior Accounts Officer.

iv) They sent a letter to the Superintendent of Police (Vigilance and Anti-corruption) explicit the misappropriation and abuse of power by the petitioner and vigilance enquiry is pending. They also submitted a proposal to the Chief Secretariat (Agriculture) with a request to sustain the service of the petitioner before he getting superannuated.

v) Since the charges were serious, the Chief Secretariat (Agriculture) suspended the petitioner from the service vide order dated 27.0.2017. Thereafter, the case was referred to Chief Secretariat (Vigilance and Anti-Corruption)

and followed by that, it was referred to Vigilance Department for detailed enquiry and the report is awaited.

vi) Therefore, this writ petition has no merits and is liable to be dismissed.

4. In the counter affidavit filed by the 3rd respondent it is stated that no relief has been sought against them and hence, they are not necessary party to the writ petition and therefore, this writ petition is not maintainable as far as the 3rd respondent is concerned.

5. The learned counsel appearing for the writ petitioner submitted that the impugned order given by first the respondent is arbitrary and illegal and there is no reason adduced in the impugned order for suspending the petitioner. His further contention is that the respondents 1 and 2 had not initiated any disciplinary proceedings against the petitioner with regard to the charges framed against him and hence the impugned order is liable to be quashed.

6. At this juncture, it is useful to extract the suspension order dated 27.02.2017 issued by the first respondent against the writ petitioner.

" Whereas a disciplinary proceedings against Thiru Siva Ilango, Superintendent-cum-Accountant, Perunthalaivar Kamaraj Krishi Vigyan Kendra (PKKV), Puducherry is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by the Sub-Rule(1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in accordance with the Rules and Regulations of the Society, hereby places the said Thiru Siva Ilango, under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the headquarters of Thiru Siva Ilango, Superintendent-cum-Accountant, PKKV, Puducherry should be Puducherry and the said Thiru Siva Ilango shall not leave headquarters without obtaining the previous permission of the Principal, PKKV.

7. The petitioner was allowed to retire on 28.02.2017 and the first respondent permitted the petitioner to retire from service, without issuing any order for not allowing him to retire from service. To that effect, no reason has been stated in the counter affidavit filed by the respondents 1 and 2.

Despite several opportunities were given to them to get instructions in this regard, the respondents 1 and 2 are not in a position to place any additional materials or file additional affidavit to clarify the above said query.

8. Based on the available records, this court found that though suspension order was passed on 27.02.2017 against the petitioner on the day before his retirement, no order has been passed not permitting the writ petitioner to retire from his service. The respondents 1 and 2 have not also framed any charges or initiate disciplinary proceedings against the petitioner, on the date of attaining his retirement on superannuation or till date. If any government employee is retired on superannuation and on the date of retirement any disciplinary proceedings or any complaint is pending against him, appropriate order shall be passed by the department not permitting the employee to retire from his service.

9. The learned counsel appearing for the 3rd respondent also reiterate the above said legal position.

10. Therefore, on considering the above said legal position and also the facts of the case, this court opines that the impugned suspension order passed by the first respondent against the writ petitioner is unsustainable and the same is liable to quashed.

11. Inview of the above, this court is inclined to pass the following order.

i) The impugned order passed by the first respondent dated 27.02.2017 against the writ petitioner is quashed.

ii) in so far as the relief of disbursement of retirement benefits is concerned, the petitioner is directed to make representation to the first respondent.

iii) This order will not stand on the way of Department to proceed against the petitioner in accordance with law.

iv) The writ petition against the 3rd respondent is dismissed as not maintainable.

12. With the above observations, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

mst

1. The Chairman,
Perunthalaivar Kamaraj Krishi Vigyan Kendra (PKKV)
Kurumbapet, Puducherry.
2. Programme Co-ordinator,
Perunthalaivar Kamaraj Krishi Vigyan Kendra (PKKV)
Kurumbapet, Puducherry.
3. The Director,
Agricultural Training and Research Institute-ATARI,
Bangalore.

+1 cc to Dr.S.R.Sundaram Advocate sr1759
+1 cc to the Government Pleader for puducherry
High Court Madras sr1439
+1 cc to M/s.Usha Raman Advocate sr1383

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