



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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W.P. (MD)No.9984 of 2020

R.Subburaman

... Petitioner

Vs.

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Director of Medical and Rural
Health Services (ESI),
Teynampet, Chennai - 600 006.

... Respondents

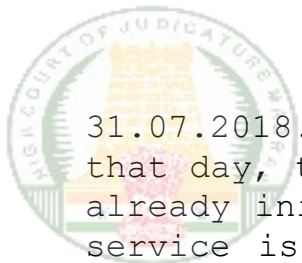
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first and second respondent i.e. the Principal Secretary to Government, Health and Family Welfare Department, Chennai and the Director of Medical and Rural Health Services (ESI), Chennai to pass appropriate orders on the disciplinary action initiated against the petitioner in Memo No.1042/ESI/SC/2/2018 dated 06.02.2018 of the Director of Medical and Rural Health Services (ESI), Chennai after furnishing a copy of the enquiry report to the petitioner, within a specified time frame so that the petitioner may get his retirement benefits without further loss of time, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.M.Jeyakumar, AGP

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the first and second respondents to pass appropriate orders on the disciplinary action initiated against the petitioner in Memo No.1042/ESI/SC/2/2018 dated 06.02.2018 of the 2nd respondent after furnishing a copy of the enquiry report to the petitioner, within a time frame.

2.The learned counsel appearing for the petitioner would submit that, the petitioner was last serving as Junior Administrative Officer in the office of the Regional Administrative Medical Officer (ESI), Madurai. On superannuation, he retired on



31.07.2018. However, when he was allowed to retire from service on that day, that was without prejudice to the disciplinary proceedings already initiated against him to continue and for that purpose, his service is retained under Rule 9 of the Tamil Nadu Pension Rules, 1978.

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3. In view of the said developments, the petitioner was able to get only encashment of leave salary, General Provident Fund and Special Provident Fund. He is yet to receive final pension, DCRG and commutation of pension. Thereafter, pursuant to the charge memo issued dated 06.02.2018, the petitioner has submitted explanation on 28.03.2018. On receipt of the same, an enquiry officer was appointed and he completed the enquiry, according to the learned counsel appearing for the petitioner, even on 24.04.2018 i.e., well before the superannuation of the petitioner. Despite these developments, the enquiry officer's report has not yet been given to the petitioner seeking his explanation and at this stage, disciplinary proceedings has been kept pending for the past more than two years because of which, the petitioner is not able to get his retiral benefits. Therefore, in order to complete the disciplinary proceedings at the earliest within a time frame to be stipulated by this Court, the petitioner has filed the present writ petition with the aforesaid prayer.

4. I have heard the learned Additional Government Pleader, who would submit that, since the enquiry had already been completed, the enquiry officer's report, if not already given to the petitioner, would be given immediately within a time stipulated by this Court and thereafter, after getting the second explanation from the petitioner, final order by the disciplinary authority would be passed and depending upon the outcome of the final order to be passed in this regard, the relief sought for by the petitioner to get further retiral and pensionary benefits would be decided.

5. Having regard to the said submissions made by the learned counsel for both both sides, especially, the learned Additional Government Pleader appearing for the respondents and by taking into account the factual matrix of this case, this Court is inclined to dispose of this writ petition with the following order:

"The 2nd respondent is hereby directed to issue the enquiry officer's report pursuant to the disciplinary proceedings initiated based on the charge memo dated 06.02.2018 against the petitioner, seeking second explanation from him, within a period of two weeks from the date of receipt of a copy of this order. Once such enquiry report is furnished to the petitioner, who shall respond to



the same within two weeks thereafter and on receipt of second explanation from the petitioner against the enquiry officer's report, the 2nd respondent shall pass final order on the disciplinary proceedings, within a period of four weeks thereafter. Depending upon the outcome of the disciplinary proceedings, the other relief sought for by the petitioner with regard to his grievance to get other retiral and pensionary benefits would be decided. The enquiry since has already been completed as early as on 24.04.2018 i.e., well before the superannuation date of the petitioner, the aforesaid time frame shall strictly be adhered to by the parties."

6. With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2. The Director of Medical and Rural
Health Services (ESI),
Teynampet, Chennai - 600 006.

+1 CC to M/s.GP (SR-14966[F] dated 26/08/2020)

W.P. (MD) No. 9984 of 2020

25.08.2020

SS (CO)

TR(03.11.2020) 3P 4C

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