



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.13620 of 2014

and

M.P. (MD) Nos.2 and 3 of 2014, 9237 of 2016

WEB COPY

P.Muthuvel

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Represented by the Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai.

3. The District Collector,
Thoothukudi District,
Thoothukudi.

... Respondents

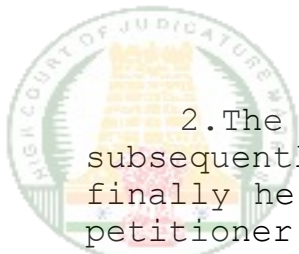
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to orders passed by the third respondent dated 07.08.2013 in proceedings No.A6/28212/2013 and consequential order, dated 02.12.2013 in Na.Ka.No.A7/56378/2009 and quash the same and consequently direct the respondents to forthwith disburse the retirement/terminal, service, pension and other benefits including DCRG benefits, GPF, Pay Commission Arrears, Special Provident Fund, Commutation of Pension, Regular Pension with arrears along with reasonable interest upon such payments, within a time period to be fixed by this Court.

For Petitioner : Mr.N.Dilipkumar

For Respondents : Mr.S.Dhayalan
Government Advocate

ORDER

The order passed by the third respondent, in proceedings No.A6/28212/2013, dated 07.08.2013 and the consequential order, dated 02.12.2013 in Na.Ka.No.A7/56378/2009, are under challenge in the present writ petition. Direction is sought for to disburse the retirement and terminal benefits of the writ petitioner.



2.The writ petitioner was appointed as Junior Assistant and subsequently promoted to the post of Assistant, Deputy Tahsildar and finally he was working as a Head Quarters Tahsildar, Tuticorin. The petitioner reached the age of superannuation on 31.05.2011. He was allowed to retire from service subject to the disciplinary proceedings initiated against him. The petitioner earlier filed W.P.(MD)No.3070 of 2011, with a prayer to direct the respondent to drop the departmental disciplinary proceedings against the writ petitioner initiated in proceedings, dated 16.12.2003. This Court passed an order, directing the second respondent to pass appropriate orders on the proposal already submitted by the first respondent. The writ petitioner was not in a position to get the disciplinary proceedings dropped and thereafter, filed another writ petition in W.P.(MD)No.6720 of 2011, with a prayer to quash the departmental disciplinary proceedings. This Court passed an order stating that the respondent was not justified in initiating the disciplinary proceedings at the verge of retirement of the writ petitioner and passed the impugned orders, dated 30.05.2011 and 31.05.2011. Thereafter, the respondents are passed an order appointing Enquiry Officer to proceed with the enquiry and conclude the departmental disciplinary proceedings.

3.Pursuant to the appointment of Enquiry Officer, the District Collector passed an order in proceedings, dated 02.11.2013 issuing a show cause notice based on the enquiry report. Thus, the Enquiry Officer conducted enquiry and submitted his final report and based on the enquiry report, the District Collector issued a notice inviting further objections from the writ petitioner enabling the authorities to pass final order in the departmental disciplinary proceedings. The said proceedings are under challenge in the present writ petition.

4.The learned counsel appearing on behalf of the writ petitioner mainly contended that the charge memo was quashed by this Court in the earlier writ petition filed by the petitioner in W.P.(MD)No.6720 of 2011. When the departmental disciplinary proceedings are quashed by this Court, by order, dated 15.06.2011, there is no reason to continue the departmental disciplinary proceedings. Thus, the second show cause notice is to be quashed.

5.The learned Government Advocate appearing on behalf of the respondents disputed the said contentions by stating that the entire disciplinary proceedings were not quashed. Taking note of the orders of this Court, the competent authorities continued the departmental disciplinary proceedings and conducted enquiry and issued a second show cause notice. The present writ petition is filed challenging the second show cause notice and therefore, the writ petition itself cannot be entertained. The authorities are ready to pass final orders and due to the pendency of the present writ petition, they are unable to decide the matter.



6.This Court is of the considered opinion that the reliance placed by the petitioner regarding the earlier orders of this Court is of no avail to quash the second show cause notice issued. If at all the interpretation adopted by the respondents are erroneous, the writ petitioner should have taken appropriate action during the relevant point of time. When this Court passed an order on 15.06.2011, contrarily he allowed the enquiry to be concluded and after receiving second show cause notice from the District Collector, he has chosen to file the present writ petition. The Enquiry Officer conducted the domestic enquiry and submitted a report to the disciplinary authority. Such being the factual position, this Court cannot interfere the scope of the order passed by this Court in W.P.(MD)No.6720 of 2011 to quash the entire disciplinary proceedings which were already concluded and the final order alone is to be passed to the departmental disciplinary proceedings. In view of the fact that the enquiry proceedings are already over, the second show cause notice is issued to the petitioner that the petitioner is bound to submit his objections to the competent authority and on receipt of the objections, the disciplinary authority has to take a decision and pass final orders.

7.No writ petition can be entertained against the second show cause notice in a routine manner. The departmental disciplinary proceedings initiated must be concluded within a reasonable period of time. Intermittent intervention in departmental disciplinary proceedings are not preferable and only on exceptional circumstances, Courts can interfere during the pendency of the departmental disciplinary proceedings. All the departmental disciplinary proceedings should be initiated against the public servants, which are to be concluded by affording opportunity to the delinquent officials and by following the procedures contemplated. Contrarily, the Court cannot adjudicate the merits and demerits of the charges or the explanations submitted by the delinquent officials in a writ proceedings under Article 226 of the Constitution of India. Appreciating the merits and demerits of the facts regarding the allegations are impermissible. Only if the procedures are not followed, high Court can intervene and direct the authorities to follow the procedures enabling the authorities to take a decision in compliance with the principles of natural justice. Contrarily, factual aspects cannot be adjudicated during the pendency of the departmental disciplinary proceedings by the high Court under Article 226 of the Constitution of India.

8.In the present case, right from the initiation of disciplinary proceedings, the petitioner has filed the writ petition. Recent trend amongst the public servants are that soon after initiation of disciplinary proceedings right from the order of suspension, they started litigating the issues one way or the other and attempting to protract the proceedings and escape from the clutches of the departmental proceedings. Such behavior of the public servants can never be encouraged by the High Courts. Thus,



the writ petition ought to be considered and appropriate orders ought to be passed without any further delay. Long delay in conclusion of the departmental disciplinary proceedings would cause prejudice to the employees also. In the present case, the petitioner is enable to get his terminal and retirement benefits due to the long pendency of the departmental disciplinary proceedings. Of course, the petitioner is also contributed for the long delay of filing earlier writ petitions. Undoubtedly, the earlier writ petitions were ordered in favour of the writ petitioner. However, the interpretation of the said order cannot be accepted in favour of the writ petitioner and consequential orders passed pursuant to the earlier order passed by this Court cannot be a ground to quash the entire departmental disciplinary proceedings. The Enquiry Officer conducted the enquiry and submitted his report and the second show cause notice has already been issued.

9.This being the factum, the respondents are directed to conclude the departmental disciplinary proceedings by affording opportunity to the writ petitioner and pass final orders within a period of twelve (12) weeks from the date of the receipt of a copy of this order. The petitioner is bound to submit his objections within a period of two weeks from the date of receipt of a copy of this order. If the petitioner has not filed any objection, then, the respondents shall consider the issues on merits and pass orders in the departmental disciplinary proceedings.

10.With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

sjj

To

1. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.



2. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chempauk, Chennai.

3. The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to the SPL GP SR-21108.

+1 CC to M/s.N.DILIP KUMAR, Advocate SR-20960.

W.P. (MD) .No.13620 of 2014
03.11.2020

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