IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No. 2615 of 2019
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S. Vedarasu .. Appellant

Versus

The Inspector General of Registration
Chennai - 600 028 .. Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the Order dated 09.10.2018 passed in WP No. 7819 of 2015 on the file of this Court.

Prayer in WP No. 7819 of 2015:
Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Certiorarified Mandamus Calling for the records in connection with the proceedings of the respondent in Charge Memo No.34922/ A2/2014 dated 31.7.2014 and Proc. No.64414/ V2/2009 dated 22.7.2014 and Proc. No.64414/ V2/2009 dated 24.7.2014 and to quash the same and permit the petitioner to peacefully retirement from service on 31.7.2014 AN and to settle the reitrement and full pensionary benefits within a stipulated time.

For Appellant : Mr. M. Ravi

For Respondent : Mr. T.M. Pappiah
Special Government Pleader

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JUDGMENT
(Judgment of the Court was delivered by R. SUBBIAH, J)

The appellant herein has filed WP No. 7819 of 2015 before the learned single Judge for issuing a Writ of Certiorarified Mandamus calling for the records in connection with the charge memo dated 31.07.2014, the proceedings dated 22.07.2014 and proceedings dated 24.07.2014, quash the same and consequently permit the appellant to peacefully retire from service on 31.07.2014 and to settle all his terminal benefits and full pensionary benefits within a time that may be stipulated by this Court.

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2. When the appellant was working as Sub-Registrar, Perambalur, a show cause notice dated 27.06.2003 under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued to him. The crux of the charge is that due to his negligent act, the appellant had caused loss to the tune of Rs.5,76,101/- to the exchequer. The specific charge against the appellant is that he did not take action to refer the undervalued documents for determination of correct market value to the Special Deputy Collector (Stamps), Tiruchirapalli within the stipulated time as contemplated under Section 47-A (3) of The Indian Stamp Act. The appellant was also charged for his negligent discharge of duty in not referring the matter to the District Registrar, Ariyalur to initiate action for recovery of deficit stamp duty under Section 33-A of the Indian Stamp Act. According to the appellant, the disciplinary proceedings pertaining to the charge memo dated 27.06.2003 was delayed for more than 13 years and therefore, he challenged the charge memo dated 27.06.2003 by way of WP No. 19427 of 2014 .

3. When the departmental proceedings in connection with the charge memo dated 27.06.2003 was pending, the respondent issued yet another charge memo on 29.04.2004 to the appellant. The charge against the appellant in the second charge memo is that he demanded and accepted a sum of Rs.300/- as bribe from one of the executants of a document. When the appellant was in receipt of the amount, the Vigilance and Anti-Corruption personnel caught the appellant red handed and registered a criminal case against him. According to the appellant, the criminal proceedings initiated against him in Special Criminal Case No. 3 of 2003 before the learned Chief Judicial Magistrate ended in acquittal. Even the appeal filed by the department thereagainst before this Court in Criminal Appeal No. 428 of 2014 is pending. In the meantime, the appellant has also filed WP No. 33384 of 2013 before this Court challenging the second charge memo dated 29.04.2004 and the same is pending.

4. The appellant was due to retire on 31.07.2014. A few days prior to his retirement, an order of suspension dated 22.07.2014 was issued to him on the ground that Criminal Appeal filed by the respondent before this Court against the Judgment dated 12.10.2012 passed in S.C. No. 3 of 2013 acquitting the appellant is pending besides the disciplinary proceedings initiated against him vide charge memos dated 27.06.2003 and 29.04.2004 are also pending. Consequently, by proceedings dated 24.07.2014, the appellant was not permitted to retire on 31.07.2014 and his services were extended beyond the date of his retirement to facilitate the department to conduct enquiry. According to the appellant, the first charge memo has been issued based on audit objections. It is his contention that as a Sub-Registrar, he had discharged his quasi-judicial functions for which no disciplinary proceedings could be initiated. According to the appellant, the charges are vague and bereft of any specific details. While so, the prolonged suspension based on the charge memo is arbitrary and he is entitled for retirement from service peacefully. In such circumstances, the appellant has filed the writ petition before the learned single

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Judge challenging the charge memos issued to him.

5. The learned single Judge, after hearing the submission of the counsel for both sides, refused to interfere with the charge memos issued to the appellant. The learned single Judge specifically held that when the departmental enquiry pursuant to the charge memos issued to the appellant are pending, this Court cannot interfere with the disciplinary proceedings and to direct the respondent to permit the appellant to retire from service.

6. The learned counsel for the appellant vehemently contended that the discharge of duties by the appellant as a quasi-judicial authority cannot be questioned by the respondent by conducting departmental inquiry. It is also his contention that the departmental enquiry pertaining to the charge memos issued to him in the year 2003 and 2004 are still pending and it is causing acute mental agony and discomfort to the appellant. By reason of the order of suspension issued to the appellant just prior to his retirement, the appellant could not get pension or to meet even his basic medical needs. As far as the order of suspension, it is contended by the counsel for the appellant that the pendency of the Criminal Appeal before this Court cannot be the basis for suspending him from service beyond the age of retirement. It is further contended that on the one hand, the Department has filed a Criminal Appeal No. 428 of 2014 before this Court against the Judgment of acquittal passed in S.C. No. 3 of 2013. On the other hand, the Department has simultaneously proceeded with departmental proceedings in connection with the very same charge relating to alleged demand and acceptance of bribe. According to the learned counsel for the appellant, the prolonged period of suspension and the delay in conducting and concluding the departmental proceedings vitiates the entire charge against the appellant and therefore, he is entitled for retirement from service. The learned single Judge without considering this aspect has dismissed the writ petition. Therefore, the learned counsel for the appellant prays for allowing this appeal.

7. On the above contention, this Court has heard the learned Special Government Pleader appearing for the respondents. The learned Special Government Pleader brought to the notice of this Court that notwithstanding the judgment of acquittal passed against the appellant and the Criminal Appeal filed thereagainst, the department proceeded with the conduct of departmental proceeding with respect to the charges relating to demand and acceptance of illegal gratification by the appellant. After conclusion of enquiry, the respondent, in his proceedings dated 17.03.2021, dismissed the appellant from service for the proved charges. As against the order of dismissal dated 17.03.2021, an appeal remedy is available to the appellant before the Government. While so, the relief sought for in this appeal no longer survives for consideration of this Court and he prayed for dismissal of the writ appeal.

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8. We have heard the counsel for both sides and perused the materials placed on record. The appellant has filed the writ petition before the learned single Judge questioning the two charge memos issued to him as also the order of suspension prior to his retirement mainly on the ground that there is a delay in concluding the departmental proceedings. It is now brought to the notice of this Court by the learned Special Government Pleader appearing for the respondent that the departmental proceeding initiated against the respondent relating to the charge memo dated 29.04.2014 has been concluded and the respondent passed a final order on 17.03.2021 imposing the punishment of dismissal from service. As the appellant was dismissed from service, at this stage, the correctness or otherwise of the charges issued to the appellant or the order of suspension passed against the appellant before retirement need not be gone into by this Court. It is needless to mention that as against the order dated 17.03.2021 dismissing the appellant from service, the appellant can prefer a statutory appeal to the Government and assail the correctness of the order dated 17.03.2021. In such view of the matter, the relief sought for in this writ appeal no longer survives for our consideration. Accordingly, the writ appeal fails and it is hereby dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Inspector General of Registration
Chennai - 600 028

+1cc to Mr.M.Ravi, Advocate SR.No. 18265
+1 cc to Government Pleader Sr.No. 18461

WA No. 2615 of 2019

A.SK(29.06.2021)

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