



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P.No.12278 of 2021
& WMP Nos.13051 and 13053 of 2021

A.Wilfred Kitchingh

.. Petitioner

Versus

The District Collector,
Chengalpet District.

.. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent made in Na.Ka.No.10972/2019/A1 dated 20.03.2021 and quash the same and consequently direct the respondent to permit the petitioner to retire from service on the date of his age of superannuation on 30.04.2019 and disburse all of his attendant, service and retirement benefits.

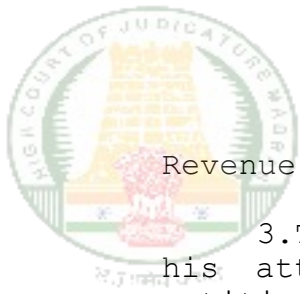
For Petitioner : Ms.G.Selvi George

For Respondent : Mr.C.Kathiravan
Government Advocate

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent made in Na.Ka.No.10972/2019/A1 dated 20.03.2021 and quash the same and consequently direct the respondent to permit the petitioner to retire from service on the date of his age of superannuation on 30.04.2019 and disburse all of his attendant, service and retirement benefits.

2.The petitioner is working as a Special Tahsildar (LA) IT Express Way Scheme, Tambaram. He was served with an order of suspension dated 30.04.2019 in contemplation of an enquiry under sub rule (c) of Rule 17 of the Tamil Nadu Civil Service (Discipline & Appeal) Rules. The charge against the petitioner was that, while he was working as Taluk Tahsildar, Pallavaram, an FIR was registered against him on 08.03.2018 for assaulting a



Revenue official viz., Special Tahsildar (Chennai City).

3.The petitioner was not permitted to retire on the date of his attaining the age of superannuation on 30.04.2019. The petitioner challenged both the orders viz., the order of suspension as well as the order not permitting the petitioner to retire from service in W.P.No.18420 of 2019. Though the writ petition was dismissed, the petitioner filed an appeal in W.A.No.4129 of 2019. The Hon'ble Division Bench of this Court disposed of the writ appeal with the following directions:

6.So far as the issue relating to there being no progress made in the inquiry itself and the charge memo having not been issued, as alleged by the appellant, we provide that the concerned Disciplinary Authority shall ensure that the charge memo, if not already served, shall be served within a period of one month from today and the inquiry proceedings, if any, shall be concluded expeditiously, preferably within three months thereafter.

4.Though specific direction was issued to the respondent to serve the charge memo within a period of one month from the date of order and to conclude the enquiry within three months thereafter, the charge memo itself was issued by the impugned order dated 20.03.2021. The present writ petition is to quash the impugned order dated 20.03.2021 passed by the respondent.

5.The learned counsel for the petitioner submitted that the charge memo itself was issued only after the petitioner filing a contempt petition and that the proceedings now initiated after this length of time are not only contrary to the directions of this Court but also cause serious prejudice to the petitioner on account of the undue delay. The learned counsel submitted that the respondents have not disbursed the Special Provident Fund, Earned Leave Encashment and other monetary benefits to which the petitioner is entitled even if he is not permitted to retire from service. The learned counsel also submitted that the respondent has not even paid the subsistence allowance which the petitioner is entitled to as per service Rules.

6.There is a delay in complying with the directions of this Court. The respondent may have valid explanation for the delay, especially having regard to the pandemic situation in the State. This Court is unable to interfere with the charge memo merely on the ground of delay in issuing the charge memo. The petitioner is entitled to other statutory benefits which he is otherwise entitled to during the pendency of disciplinary proceedings. Hence, this Court by an order dated 14.07.2021 passed the



following order:

2. The petitioner is permitted to make a representation to the respondents, for disbursement of monetary benefits which he is entitled to even if he is not allowed to retire from Service. On such representation is being made by the petitioner within a period of one week from today, the respondents shall consider and pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. Post the matter next week.

7. Since this Court has already issued a direction to the respondent to consider the case of the petitioner to get the benefits, this Court is not inclined to add anything more, but hope that the respondent will not make any further delay in considering the claim of the petitioner to other monetary benefits. With regard to subsistence allowance, the petitioner is entitled to as a matter of right and therefore, this Court is inclined to pass appropriate orders in this writ petition.

8. Having regard to the facts narrated above in relation to the case of the petitioner, this Court is of the view that this writ petition may not be kept pending unnecessarily and the same can be disposed of with appropriate directions not only in the interest of petitioner but also in the interest of respondent.

9. Accordingly, this writ petition is disposed of with the following directions:

The respondent is directed to expedite the enquiry proceedings. The respondent shall pass appropriate orders after holding an enquiry, within a period of six weeks from the date of receipt of a copy of this order. The respondent is further directed to disburse the subsistence allowance as per the Rules, within a period of two weeks from the date of receipt of a copy of this order. The representation of the petitioner in respect of other monetary benefits shall also be considered by the respondent, within a period of eight weeks from the date of receipt of a copy of this order. The respondent shall proceed with the Charge Memo in accordance with law. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar



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To

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The District Collector,
Chengalpet District.

+1cc to the Government Pleader, S.R.No.35320

W.P.No.12278 of 2021
& WMP Nos.13051 and 13053 of 2021

RSI (CO)
CB(23/08/2021)