

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10223 of 2020

Dr.V.R.Nandakumar

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Principal Secretary,
Health and Family Welfare (I-1) Department,
Secretariat, Chennai - 600 099.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Dean,
Madras Medical College,
Chennai - 600 003.

.... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 12.02.2020 and dispose of the same within a time frame.

For Petitioner : Mr.W.M.Abdul Azeez

For Respondents : Mr.Karthikeibalan,
Government Advocate

O R D E R

This writ petition has been filed, seeking a direction to the 2nd respondent to consider the representation of the petitioner dated 12.02.2020 and dispose of the same within a time frame.

2. The sum and substance of the case is that the petitioner had issued a bogus medical certificate under Rule 11-DD of

Income tax Rules, 1961 to various Government Servants, by affixing a rubber stamp with an inscription of his qualification as M.D. and he has not actually obtained the said qualification. Therefore, the Department framed specific charges against the petitioner, by which an explanation has been sought for and on account of the said misconduct, the petitioner was also placed under suspension, since there was a criminal case against him. The petitioner was also in the habit of issuing bogus handicapped certificate for claiming Railway concession, for which a criminal case has been registered in Crime No.2 of 2004 under Sections 420, 465, 467, 471, 472 and 34 of IPC and the matter is pending before the Judicial Magistrate No.I, Virar. During pendency of the criminal case, departmental action has been initiated and as the petitioner attained superannuation, the Departmental enquiry has been continued under the Pension Rules.

3. It is the case of the petitioner that a final order has been passed on the charges and a punishment of compulsory retirement was imposed, stating that the other terminal benefits due to him will be considered separately. It is the further case of the petitioner that when he has been imposed with a punishment of compulsory retirement and that the respondent have stated that they will issue a separate order in respect of the grant of monetary benefits to the petitioner. It is to be noted that compulsory retirement is not bar in the present set of facts to deprive the pensionary benefits and that the respondents have admitted that the proposal is pending before the 1st respondent to pass necessary orders.

4. The learned counsel for the petitioner submitted that in terms of Paragraph Nos.6, 8 and 9 of the counter affidavit, the petitioner shall be entitled to all the benefits.

5. Mr.Karthikeibalan, learned Government Advocate appearing on behalf of the respondents contended that the Paragraph Nos.6, 8 and 9 of the counter affidavit should not be read in isolation and to be read as a whole in conjunction with other paragraphs.

6. It is stated in Paragraph No.3 of the counter affidavit that the petitioner was detained in jail pursuant to registration of a criminal case in Vasai Road Railway Police Station and therefore, the period of detention can only be regulated after the outcome of the criminal case, pending before the Court of Law. Therefore, I find substance in the submission of the respondents that the terminal benefits payable to the petitioner would be extended, depending upon the outcome of the criminal case pending before the Virar Court, Maharashtra.

7. Hence, this Court, instead of directing the 2nd respondent to dispose of the representation of the petitioner dated 12.02.2020 as sought for in this Writ Petition, without going into the merits of the present case, directs the respondents to settle all the benefits due to the petitioner, depending upon the outcome of the criminal case, pending before the I Class Judicial Magistrate, Virar, Maharashtra.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vum

To:

1. The Principal Secretary,
Health and Family Welfare (I-1) Department,
Secretariat, Chennai - 600 099.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Dean,
Madras Medical College,
Chennai - 600 003.

+1cc to Mr.WM. ABDUL AZEEZ, Advocate, S.R.No.1376

+1cc to the Government Pleader, Highcourt, Madras S.R.No.1219

KK(CO)
04/03/2021

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