



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.12.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.19863 of 2018

W.M.P.(MD).No.17651 of 2018

A.Karunakaran

...Petitioner

/Vs./

1.The Additional Chief Secretary to Government,
Home (Police-XVII) Department,
Secretariat, Chennai-600 009.

2.The Secretary to Government,
TNPSC,
TNPSC Road,
V.O.C.Nagar, Park Town,
Chennai-600 003.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent I.e., the Additional Chief Secretary to Government, Home (Police-XVII) Department, Chennai relating to in G.O.(2D).No.232, Home (Police-XVII) Department dated 27.07.2017 and in G.O.(2D).No.204, Home (Police-XVII) Department dated 18.06.2018 and quash the same and consequently, direct the first respondent the Additional Chief Secretary to Government, Home (Police-XVII) Department, Chennai to allow the petitioner to retire peacefully and arrange to send regular pension proposals within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1
Mr.Vairamuthu
for Mr.J.Anandkumar,
Standing Counsel for R2



O R D E R

The petitioner challenges the orders passed by the Additional Chief Secretary to Government/R1 dated 27.07.2017 and 18.06.2018.

2. The petitioner was serving as District Fire Officer, Ramanathapuram, and his date of superannuation was 30.06.2014. While so, disciplinary action was initiated in terms of Rules 17(b) of the Tamil Nadu Civil Services [Disciplinary and Appeal] Rules on 10.04.2014 against him. Thus, he was not allowed to retire and G.O. (Ms).No.450, Home (Police XVII) Department was passed on 27.06.2014 placing him under suspension.

3. As far as the disciplinary action is concerned, the charges laid against the petitioner was that during the course of Joint Surprise Visit conducted on 18.03.2011, the petitioner was found in possession of a sum of Rs.16,500/-.

4. Since he could not render proper accounts for the same, the Authority laid a charge that the money had been kept in suspicious circumstances and that the employee had failed to maintain absolute integrity and devotion of duty in public services, violating Rule 20 of the Tamil Nadu Servant's Conduct Rules, 1973 (Rules).

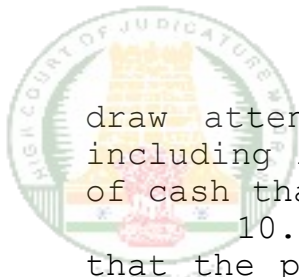
5. The petitioner has duly responded to the charge memo pointing out that the amount had been withdrawn from his bank account on 02.03.2011 and statements evidencing the withdrawal of a sum of Rs.30,000/- had been produced. The amount of Rs.16,500/- in his possession related to two components, Rs.10,000/- for medical expenditure and a sum of Rs.6,500/- for expenses for the engagement function of his sister's daughter.

6. However, the explanation was brushed aside and an order came to be passed on 27.07.2017 imposing punishment of compulsory retirement. The impugned order itself had been passed after a period of three years of suspension, a direction issued by this Court in W.P(MD).No.4200 of 2016 and orders in contempt petition filed by the petitioner.

7. Effect was given to the order of compulsory retirement by way of Government Order on 18.06.2018, computing the pension and Death cum Retirement benefits. The final pension was reduced from a sum of Rs.15,080/- to Rs.13,080/- and Death cum Retirement Gratuity was reduced to a sum of Rs.8,95,280/- from a sum of Rs.9,95,280/-. The aforesaid orders are under challenge.

8. Learned counsel for the petitioner would point out that no basis has been set out for charge and the explanation that has been set out by the petitioner, though credible, has been disbelieved with no justification therefor.

9. Per contra, learned Additional Government Pleader would rely upon Rule 20 of the Conduct Rules that mandates that 'every member of the Service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the service'. However, he is unable to



draw attention of the Court to a specific Rule or Regulation, including in the Conduct Rules, that impose a limit upon the amount of cash that may be carried by an employee.

10. Having heard both learned counsels, I am of the view that the petitioner is entitled to succeed in the writ petition. A reading of the charges and the impugned order reveals that there is no justification whatsoever for placing of the employee under suspension. This is not a case where the quantum of cash is so large as to attract suspicion.

11. That apart, the petitioner has also produced the bank statements that are on record which reflects balances in excess of the amount that was carried on his person. The justification and explanation tendered by the petitioner, as to the purpose for which he proposed to deploy the amount was, in my view, over and above the justification that he was required to give.

12. The Conduct Rules do not contain therein, any limitation in regard to cash that may be carried upon the person of an employee and in the absence of the respondents citing specific reasons or a prima facie suspicion that the petitioner had received illegal gratification, my conclusion is that the proceedings constitute a mere fishing and roving enquiry. In fact, the impugned order at paragraph No.7 makes it clear that no tangible material has found by the respondent to maintain the impugned action.

13. In light of the discussion as aforesaid, the impugned orders are quashed and the respondent shall pay over the consequent monetary benefits that have been withheld to the petitioner within a period of 12 weeks from today. This Writ Petition is allowed. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

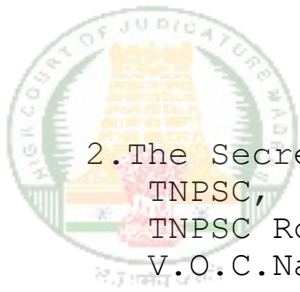
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant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

To

1.The Additional Chief Secretary to Government,
Home (Police-XVII) Department,
Secretariat, Chennai-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Secretary to Government,
TNPSC,
TNPSC Road,
V.O.C.Nagar, Park Town, Chennai-600 003.

+1 CC to M/s.SPL GP (SR-39494[F] dated 20/12/2021)

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-39674[F] dated
21/12/2021)

W.P.(MD)No.19863 of 2018
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RD(03.02.2022) 4P 5C