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W.P.No.13724 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13724 of 2019

and

W.M.P.Nos.13793 of 2019 & 19456 of 2021

P.Kumarakrishnan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Villupuram District,
Villupuram.

4.The District Educational Officer,
Villupuram,
Villupuram.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India
for issuance of a Writ of Certiorarified Mandamus, to call for the records



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relating to the impugned charge memo issued by the 2nd Respondent in Na.Ka.No.32851/W1/E3/2017 dated 25.04.2019 and the subsequent impugned order of suspension in R.C.No.032851/W1/S3/2017 dated 26.04.2019 issued by the 2nd Respondent and to quash the same and consequently directing the Respondents to allow the Petitioner to retire from service on the date of retirement with all consequential and other attendant benefits.

For Petitioner : Mr.J.Jaya Malan
For Mr.Sankaran.G

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The order of suspension and charge memo issued to the writ petitioner are under challenge in the present writ petition.

2. The petitioner was appointed as PG Assistant in Tamil Nadu Higher Secondary Educational Service. He was promoted to the post of Higher Secondary School Head Master on 08.08.2016.

3. The learned counsel for the petitioner states that the petitioner was placed under suspension on the eve of his retirement in proceedings dated 26.04.2019. The petitioner was due to retire from service on 30.04.2019. A



charge memo was issued against the writ petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Seven charges were framed against him. The allegations against the writ petitioner are serious in nature.

4. The learned Special Government Pleader appearing on behalf of the respondents brought to the notice of this Court that during the pendency of the writ petitioner an Enquiry Officer was appointed, who in turn conducted an enquiry by affording opportunity to the writ petitioner and submitted the final report on 12.04.2019, which is under consideration by the competent authorities. Due to the pendency of the writ petition, the authorities are not in a position to pass final orders in the departmental Disciplinary proceedings. That apart, a Criminal Case was also registered against the writ petitioner, which is also pending before the Competent Criminal Court of Law.

5. An employee facing a Criminal Case and departmental disciplinary proceedings is not entitled to get the terminal and pensionary benefits. In the present case, the petitioner was placed under suspension on 26.04.2019



and his services were extended by invoking the Fundamental Rules. Thus, the petitioner has to set out his claim for settlement of pensionary benefits only after the disposal of the Criminal Case and the departmental disciplinary proceedings.

6. As far as the departmental disciplinary proceedings are concerned, the enquiry has already been concluded and the authorities have to communicate the copy of the enquiry report to the petitioner enabling him to file further objections on the findings of the Enquiry Officer and thereafter, dispose of the same on merits and in accordance with law.

7. Charge memorandum at this stage cannot be quashed by this Court. Furthermore, there is no infirmity as such in respect of the charge memorandum issued against the writ petitioner, whereas the charges are grave in nature. Enquiry proceedings were already been concluded, though the petitioner states that the charges were framed based on the third party complaint and the allegations are falling under the provisions of the Tamil Nadu Government Servant Conduct Rules. Thus, there is no impediment for the authorities to proceed with the disciplinary proceedings and it was



rightly proceeded and the enquiry was already been concluded.

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8. That being the fact, the authorities have to continue the disciplinary proceedings by following the procedures and pass final orders as expeditiously as possible. As far as the Criminal Case is concerned, it is for the petitioner to expedite the same by approaching the Competent Criminal Court of Law.

9. The learned counsel for the petitioner made a submission that the authorities may be directed to pass final order within a stipulated time limit. This court is of an opinion that it is the petitioner, who approached the Court and caused delay for the disposal of the disciplinary proceedings. Therefore, he cannot seek any relief of fixing the time limit. However, the authorities competent on initiation of disciplinary proceedings must ensure that such proceedings are disposed of within a reasonable period of time. Enormous delay in disposal of the disciplinary proceedings would cause prejudice to the interest of the employee.

10. In the present case, the departmental disciplinary proceedings



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were initiated in the year 2019 and the enquiry was also concluded.

Pendency of the Criminal Case is not a bar for the Disciplinary Authorities to dispose of the disciplinary proceedings and in this regard, the Government also issued guidelines recently in G.O.Ms.No.81, human Resource Management (N) Department dated 04.08.2022. Therefore, the respondents shall conclude the departmental disciplinary proceedings initiated against the petitioner and dispose of the same without any further loss of time, but the relief as such sought for by the petitioner to settle the terminal and pensionary benefits is to be considered only after the disposal of the Criminal Case and also the departmental disciplinary proceedings.

11. With these clarifications, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.10.2022

Jeni
Index : Yes
Speaking order



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To

1. The Principal Secretary to Government,
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School Education Department,
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S.M.SUBRAMANIAM, J.

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