



W.P.Nos.29989 & 30057 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.29989 & 30057 of 2017

and

W.M.P.No.32513 of 2017

A.Shanmugasundaram

...Petitioner in both W.Ps

Vs.

The State of Tamil Nadu,
Represented by

1.The District Collector,
Ariyalur District, Ariyalur.

2.The Block Development Officer,
(Village Panchayat)
Jayamkondam,
Ariyalur District.

..Respondents in both W.Ps

Prayer in W.P.No.29989 of 2017: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to disciplinary proceeding against the petitioner, through his proceeding No.Na.Ka.No.4255/2009/RD2 dated 29.6.2017 on the file of the 1st respondent and quash the same and consequently direct the respondents for allowing the petitioner to retire from service with effect from the date his superannuation.

Prayer in W.P.No.30057 of 2017: Writ Petition filed Under Article 226 of



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the Constitution of India, to issue a Writ of Declaration, declaring that the order of suspension of the petitioner from service through the proceeding in Na.Ka. No.4255/2009/ RD2 dated 29.6.2017 on the file of the 1st respondent and the consequential order in R.C.No.4255/2009/RD2 dated 30.6.2017 retaining the petitioner in service beyond the date of his superannuation are null and void and consequently direct the respondents to grant all retirement and pensionary benefits to the petitioner forthwith.

For Petitioner	: Mr.V.Rajendran [in both W.Ps]
For R1	: Mrs.E.Indhumathi Government Advocate [in both W.Ps]
For R2	: No appearance [in both W.Ps]

COMMON ORDER

The relief sought for in W.P.No.29989 of 2017 is to call for the records of the 1st respondent relating to disciplinary proceeding against the petitioner, through his proceeding No.Na.Ka.No.4255/2009/RD2 dated 29.6.2017 on the file of the 1st respondent and quash the same and consequently to direct the respondents for allowing the petitioner to retire from service with effect from the date his superannuation.

1.1 In respect of W.P.No.30057 of 2017, the relief sought for is to



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declare that the order of suspension of the petitioner from service through the proceeding in Na.Ka. No.4255/2009/ RD2 dated 29.6.2017 on the file of the 1st respondent and the consequential order in R.C.No.4255/2009/RD2 dated 30.6.2017 retaining the petitioner in service beyond the date of his superannuation are null and void and consequently direct the respondents to grant all retirement and pensionary benefits to the petitioner forthwith.

2. The petitioner states that he was working as Deputy Block Development Officer and the charge memo was issued with an allegation that the petitioner had submitted fake school certificate to get appointment as Junior Assistant and thereafter, promoted to the post of Deputy Block Development Officer. The other charge is that the petitioner had suppressed the fact regarding the verification process commenced to ascertain the genuinity of the School certificate submitted by the petitioner. Annexure-II to charge memo provides Statement of allegations and Annexure-III indicates that the Joint Director (Personnel), Directorate of Government examination provided an information through telephone call. The said telephone call was explained in the counter affidavit by stating that the Joint Director has informed the competent authorities through phone call, on account of the fact



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that the petitioner was due to retire from service on 30.06.2017. The Joint Director informed the District Collector through phone call that the mark sheet produced by the petitioner is found fake and further, advised to initiate proceedings against the writ petitioner and subsequently, a report will be sent to the competent authorities. The urgent phone call was made by the Joint Director at the Directorate of Controller of Examination since the petitioner was due to retire on 30.06.2017.

3. This Court do not find any infirmity in respect of the charge memo issued against the writ petitioner. The charges are serious in nature, warranting an enquiry. Since the petitioner was due to retire from service on 30.06.2017, he was placed under suspension and retain in services by invoking the Fundamental Rules.

4. The learned counsel for the petitioner made a submission that there was an enormous delay in initiating departmental disciplinary proceedings against the writ petitioner. The petitioner has already established that the School certificates produced by him were genuine. Thus, there is no reason to initiate departmental disciplinary proceedings and therefore the charge memo



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is to be quashed.

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5. The learned Government Advocate appearing on behalf of the 1st respondent objected the said contention by stating that the Controller of examination had send a letter to the Perambalur District Collector that the report about the mark sheet of the petitioner will be send later. Subsequently, the Perambalur District Collector has send so many reminding letters, but the report has not been sent by the concerned department about the certificate. The Ariyalur District Collector had sent several letters on 03.09.2012, 24.07.2013, 27.08.2013, 03.10.2013, 05.11.2013 and 23.12.2013. 8 letters in the year 2014 and 2 letters in the year 2016 and on 04.04.2017 and 12.06.2017, but the report is not sent by the concerned department. In the meantime, the petitioner has promoted as Deputy Block Development Officer. Since the petitioner was due to retire from service in the month of June 2017, the Ariyalur District Collector has sent emergent letter on 28.06.2017 and also sent a fax message to the Controller of Examination to send the report about the SSLC mark sheet of the petitioner for the above reason.

6. Thereafter, it was verified by the Controller of Examination, who in



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turn, informed the District Collector through phone that the certificate produced by the petitioner is fake one. In this regard, the Controller of Examination has unnecessarily delayed the process and not responded to the letters sent by the District Collectors on several occasions.

7. Such a conduct of the office of the Controller of Examination is to be deprecated. Whenever letters or complaints are received from the competent authorities, the Controller of Examination is bound to verify the genuinity of the same and send a report to the authority concerned for the purpose of initiating all further actions. Contrarily, in the present case, the Ariyalur District Collector sent several letters to the Controller of Examination, who in turn, failed to respond within a reasonable period of time.

8. No writ against a charge memo is entertainable in a routine manner. Writ against a charge memo is to be entertained only if it is tainted with the allegation of *malafides* or issued by an incompetent authority having no jurisdiction. Even in case of raising an allegation of *malafides*, the authorities against whom such an allegation is raised are to be impleaded as a party



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respondent in their personal capacity. In all other cases, the charged official has to submit his explanation / objections if any and defend the case in the manner known to law. Thus, the petitioner has to establish the genuinity of the certificate by producing all the relevant documents and evidences during the course of enquiry to be conducted by the disciplinary authority by following the procedures as contemplated under the Discipline and Appeal Rules.

9. In view of the fact that the petitioner has already reached the age of Superannuation, the respondents are directed to continue the departmental disciplinary proceedings and dispose of the same as expeditiously as possible by affording opportunity to the writ petitioner and by following the procedures as contemplated under the Discipline and Appeal Rules.

10. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes



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Speaking order: Yes

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To

1.The District Collector,
Ariyalur District, Ariyalur.

2.The Block Development Officer,
(Village Panchayat)
Jayamkondam,
Ariyalur District.



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S.M.SUBRAMANIAM, J.

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