



W.P.(MD)No.15471 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)No.15471 of 2022
and
W.M.P.(MD)Nos.11111 and 11112 of 2022

M.Suresh

... Petitioner

Vs.

- 1.The Registrar General,
Madras High Court, Madras.
- 2.The Principal District Judge,
Pudukottai, Pudukottai District.
- 3.The Special Sessions Judge,
SC/ST Cases Special Court,
Pudukottai Court Campus,
Pudukottai District.
- 4.The District Munsif Cum Judicial Magistrate,
Iluppur Court, Iluppur, Pudukottai District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned memo passed by the third respondent vide his proceedings Nil, dated 22.06.2022 and consequential impugned order passed by the second respondent vide his proceedings in Order:A.No. 104/2022-A, dated 30.06.2022 and consequential impugned order passed by the second respondent vide his proceedings in Order:A.No.105/2022,



W.P.(MD)No.15471 of 2022

dated 30.06.2022 and quash the same as illegal and consequently, to direct the respondents to allow the petitioner to retire from service with all retirement benefits along with accrued interest thereon within a period that may be stipulated by this Court.

For Petitioner :Mr.H.Mohammed Imran

for Mr.Ajmal Associations

For Respondents :Mr.T.S.Mohammed Mohideen

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed to quash the impugned orders passed by the third and second respondents, dated 22.06.2022, 30.06.2022 and 30.06.2022, respectively, and for a direction to the second respondent to allow the petitioner to retire from service with all retirement benefits along with accrued interest thereon within a period that may be stipulated by this Court.

2.Heard Mr.H.Mohammed Imran, learned Counsel for the petitioner and Mr.T.S.Mohammed Mohideen, learned Counsel, who takes notice for the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



W.P.(MD)No.15471 of 2022

3.The petitioner was appointed as Senior Bailiff on 02.05.2007 and after getting various promotions, finally assumed office as Deputy Nazir on 01.03.2022 in the office of the fourth respondent. It is the case of the petitioner that he has rendered more than 15 years of impeccable service. While he was working as Deputy Nazir in the office of the District Munsif-cum-Judicial Magistrate, Iluppur, a memo was issued to him to the effect that he did not include the counter affidavits filed by the respective parties in the case bundle. Though the petitioner submitted an explanation on 26.06.2022, stating that one Junior Assistant, Mr.Felix, who was to give the papers after making entry in the relevant registers, did not handover the counter affidavits and hence, he could not put up the same in the bundles. Therefore, the explanation was to the effect that he never missed a single paper, which have to be put up in the respective case bundles and that it was due to the mistake of Junior Assistant, the counter affidavit was not put up in the bundles. It is seen that by the impugned memo, the petitioner was asked to give an explanation to consider whether any disciplinary action is required.

4.Though the petitioner alleges *mala fide*, this Court is not inclined to go into those issues for the present. It is the case of the petitioner that he was due to retire on 30.06.2022. However, on the eve of his retirement, the second respondent by the impugned proceedings,



W.P.(MD)No.15471 of 2022

dated 30.06.2022 passed an order not to allow the petitioner to retire from service by invoking Rule 50(1)(c) of Fundamental Rules on the ground that the memo, dated 26.02.2022 is pending. Further, the second respondent passed the impugned order, dated 30.06.2022 suspending the petitioner. Aggrieved by the impugned orders, the above Writ Petition is filed.

5.This Court has noticed that the memo, dated 22.06.2022 relates to the alleged irregularity noticed nearly ten months earlier. This Court is unable to find any serious misconduct warranting major punishment. Assuming that the allegation is true on the face of it, considering the explanation offered by the petitioner, this Court is unable to find any justification to place to the petitioner under suspension on the eve of his retirement. It is by virtue of the impugned proceedings, the petitioner is deprived of his right to get the retirement benefits. There is no explanation why no disciplinary action is taken for about nine months. This Court, having regard to the facts and circumstances of the case, is unable to justify the order of suspension on the eve of retirement, especially, when the charge is not grave in nature and it would not lead to any major punishment.

6.In view of the above, the impugned order of suspension



W.P.(MD)No.15471 of 2022

passed by the second respondent, dated 30.06.2022 is quashed. The second respondent is directed to allow the petitioner to retire from service with all retirement benefits along with accrued interest and pass appropriate orders within a reasonable period. However, it is open to the respondents to proceed against the petitioner on the basis of the memo under pension rules, if it is warranted.

7. With the above, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
19.07.2022

Index : Yes / No

cmr

To

1. The Registrar General,
Madras High Court, Madras.
2. The Principal District Judge,
Pudukottai, Pudukottai District.
3. The Special Sessions Judge,
SC/ST Cases Special Court,
Pudukottai Court Campus,
Pudukottai District.
4. The District Munsif Cum Judicial Magistrate,
Iluppur Court, Iluppur, Pudukottai District.



WEB COPY



W.P.(MD)No.15471 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

cmr

W.P(MD)No.15471 of 2022

19.07.2022