



W.P.No.24742 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24742 of 2013 and
MP.No.1 of 2013

P.Rajendran

... Petitioner

Vs.

1. Government of Tamilnadu
Represented by the Secretary to Government,
School Education Department,
Secretariat, Chennai-9
2. The Joint Director of School Education(Personnel),
Chennai-6
3. The Chief Educational Officer,
Villupuram
4. The Director School Education,
Chennai-6

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to (1) Pro.Na.Ka.No.74247/C3/96 dated 04.02.1997 the fourth respondent (2) Na.Ka.No.139641/C2/C5/99 dated 07.12.1999 of the second respondent and (3) Pro.Na.Ka.No.139641/C5/C2/99 dated 04.08.2005 of the second respondent quash the same and issue consequential directions to the respondents to issue orders permitting the



W.P.No.24742 of 2013

petitioner to retire from service on 30.09.2011 A.N. and to disburse consequential pensionary and retirement benefits within a time frame.

For Petitioner : Mr.S.Balakrishnan
for Mr.M.Ravi

For Respondents : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order of the fourth respondent in Pro.Na.Ka.No.74247/C3/96 dated 04.02.1997 and the orders of the second respondent in Na.Ka.No.139641/C2/C5/99 dated 07.12.1999 and Pro.Na.Ka.No.139641/C5/C2/99 dated 04.08.2005 and to issue consequential directions to the respondents to issue orders permitting the petitioner to retire from service on 30.09.2011 A.N. and to disburse consequential pensionary and retirement benefits within a time frame.

2. The petitioner was appointed as Supervisor in Adult Education through Employment Exchange on 18.06.1979. Thereafter, he was promoted to the post of Assistant Project Officer on 30.06.1986. Due to abolition of Adult Education Wing, he was transferred and posted as



W.P.No.24742 of 2013

B.T.Assistant in Government Higher Secondary School, Ramapuram, Cuddalore District in the year 1993. While being so, he was suspended from service by order dated 19.07.1996 and he was also served with charge memo dated 04.02.1997 alleging that he was absent from duty from 05.10.1995 to 14.03.1996. He submitted his explanation. Thereafter, again the petitioner was served with another charge memo dated 07.12.1999 under Rule 17(b) of Tamilnadu Civil Services (D&A) Rules alleging that after his transfer to the Government Higher Secondary School, Nainarpalayam, he was absent from 13.07.1998. Once again, the petitioner was served with third charge memo dated 04.08.2005 alleging that he was absent from 22.06.2004 till the date of issuance of charge memo i.e. 04.08.2005. Insofar as the first charge memo is concerned, already enquiry was conducted. While pending enquiry, the petitioner submitted application for his voluntary retirement. However, it was not considered and rejected by order dated 15.09.2004. Insofar as the third charge memo is concerned, enquiry was conducted and the petitioner was served with show cause notice. The petitioner submitted his detailed explanation on 17.04.2007 and 22.08.2007. However, no final order was



W.P.No.24742 of 2013

passed so far. Therefore, the petitioner submitted detailed representation after attainment of age of superannuation to permit him to retire from service with all consequential benefits.

3. Heard, the learned counsel appearing on either side.

4. Admittedly, after enquiry the petitioner was called upon to explain for the enquiry report and he submitted his detailed explanation. Even then, final order was not passed against the petitioner. As such, it must be deemed to have been abated or dropped. In fact, the petitioner himself made request for his voluntary retirement as early as on 01.06.2004 itself. However, pending charges, the request made by the petitioner was not considered and rejected. Now, the petitioner is not permitted to retire from service and retained him in service as contemplated under FR 56(1)(c)(III) without passing any final order. He attained age of superannuation on 30.09.2011. The respondents failed to explain the inordinate and unexplained delay for not passing final order. Even till today, no order has been passed on the enquiry conducted



W.P.No.24742 of 2013

against the petitioner on three charge memos. Hence, all the charge memos cannot be sustained and the same are liable to be quashed. Accordingly, the impugned charge memos dated 04.02.1997, 07.12.1999 and 04.08.2005 are quashed. The petitioner is permitted to retire from the date of his request for voluntary retirement i.e. 01.06.2004. Till that date, the period of absence may be considered as 'leave without pay' and the same can be considered for his terminal benefits and pension. The third respondent is directed to disburse all monetary benefits to the petitioner within a period of sixteen weeks from the date of receipt of copy of this order.

5. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.08.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.24742 of 2013

G.K.ILANTHIRAIYAN, J.

lok

To

1. Secretary to Government,
Government of Tamilnadu
School Education Department,
Secretariat, Chennai-9
2. The Joint Director of School Education(Personnel),
Chennai-6
3. The Chief Educational Officer,
Villupuram
4. The Director School Education,
Chennai-6
5. The Government Advocate,
High Court, Madras.

W.P.No.24742 of 2013

10.08.2023