



W.P.No.9242 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9242 of 2023
and WMP Nos.9349 and 9350 of 2023

K.Nandagopal

...Petitioner

Vs

1. The Principal Secretary to the Government,
Housing and Urban Development (HB-1(1)Department,
Fort St.George, Chennai-9.

2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 107.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in connection with the impugned order passed by the first respondent in G.O.2(D) No.295, Housing and Urban Development (HB-1) (1) Department dated 21.11.2022 and G.O.(2D) No.296, Housing and Urban Development (HB-1(1) Department dated 30.11.2022 and quash the same and direct the respondents to superannuate the petitioner from service and settle his retirement benefits within a reasonable time.



W.P.No.9242 of 2023

For Petitioner : Mr.Venkataramani
Senior Counsel for
Mr.M.Muthappan
For Respondent : Mr.C.Prabhakaran
Government Advocate
For R.1
Mr.D.Veerasekaran
Standing Counsel
For R.w

ORDER

Through the impugned order dated 28.11.2022, the petitioner was placed under suspension. It is stated that the petitioner was due to retire on 30.11.2022 and the charges levelled against him relates to the year between 2014 and 2018.

2. G.O.Ms.No.111 Human Resources Management (N) Department dated 11.10.2021 states that the Government shall avoid issuing suspension order on the date of retirement and that the case should be examined atleast three months prior to the date of retirement on superannuation of the government servant. The Government Order further states that to avoid suspension on the date of retirement, decision should be taken well in advance i.e., three months prior to the date of retirement on superannuation, if final orders could not be issued in a pending disciplinary case against a Government servant retiring from service due to administrative grounds.



W.P.No.9242 of 2023

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3. Government in G.O.Ms.No.81 Human Resources Management (N)

Department dated 04.08.2022 had stipulated a compendium of instructions for review of suspension orders in matter which are pending enquiry into grave charges. While passing such Government Order, the Government had also taken into consideration of the various decisions of this Court, including the judgment of the Hon'ble Full Court in the case of ***P.Kannan Vs. Commissioner of Municipal Administration and others*** reported in ***(2022) 2 CTC 353***. As per Clause 11(ii), where a Government Servant has been suspended in contemplation of disciplinary proceedings, such proceedings should be taken immediately and finalise, normally within a period of six months.

4. In the instant case, the petitioner is claimed to have retired the age of superannuation on 30.11.2022. Apparently, the action initiated against the petitioner herein is in violation of G.O.Ms.No.111 Human Resources Management (N) Department dated 11.10.2021 and G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022.



WEB COPY



W.P.No.9242 of 2023

M.S.RAMESH,J.

Sr

5. Nevertheless, this court is of the view that the respondents can be directed to complete the disciplinary proceedings within a stipulated time. Accordingly, the respondents are directed to complete the disciplinary proceedings in Memo No.DC3/6152/2019-5 dated 17.11.2022 within a period of three months from the date of receipt of a copy of this order.

6 . With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.06.2023

Index:Yes
Speaking order
sr
To

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2. The Managing Director,
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W.P.NO.9242of 2023