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W.P. No. 20950 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P.No. 20950 of 2022

Dr.K. Ramanathan

..Petitioner

Vs.

1. The Registrar General,
Madras High Court,
Chennai – 600 104.
2. State of Tamil Nadu,
rep by
The Chief Secretary to Government
Public (Special -A) Department,
Fort St. George,
Chennai – 600 009.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India for issue of a Writ of Certiorarified Mandamus to call for the entire records in R.O.C. no. 97755/2021-B2 dated 01.11.2021 on the file of the 2nd respondent herein and the entire records in pursuant to the G.O. Ms.1006 dated 30.11.2021 on the file of the 2nd respondent and consequential proceedings in Roc. No. 4014/2017/B1/Spl. Cell in Notification No. 307/2021 dated 17.12.2021 on the file of the 1st respondent, quash the same and to direct the respondents to reinstate the petitioner in service with all consequential and attendant benefits and in the alternate, to grant liberty to the petitioner to retire



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voluntarily from service with all consequential and attendant benefits.

(Prayer amended as per order of Court dated 29.09.2023 in W.M.P. No. 21654 of 2022 in W.P. No. 20950 of 2022 by SVNJ & KRSJ)

For Petitioner :: Mr.K. Govi Ganesan

For Respondents :: Mr. Karthik Ranganathan
for R1
Mrs. V. Yamuna Devi
Special Govt. Pleader for
R2

O R D E R

(Made by S. Vaidyanathan,J.)

The present writ petition has been filed challenging the order of the 2nd respondent herein in G.O.Ms. No. 1006, Public (Special A) Department dated 30.11.2021 and the order dated 17.12.2021 by which the petitioner was relieved from Tamil Nadu State Judicial Service on compulsory retirement and for a direction to the respondents to reinstate the petitioner with all consequential and attendant benefits.

2. The petitioner was selected and appointed as Civil Judge (Junior Division/Judicial Magistrate First Class) in Tamil Nadu Judicial Service on 10.12.1999 and thereafter, he was promoted to the cadre of Senior Civil Judge on 18.02.2012. On 27.09.2016, he was promoted as District Judge (Entry Level) and was posted as Additional District Judge, Chengalpet on



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02.05.2017. While so, he was placed under suspension vide proceedings of the 1st respondent dated 04.03.2021. Thereafter, vide official memorandum dated 20.05.2021, on the file of Registrar (Vigilance), serious allegations were levelled against the petitioner and the petitioner submitted his detailed explanation on 10.06.2021. According to the petitioner, by notification dated 16.12.2021, the order of suspension was revoked and he was reinstated into service and posted as Chairman, Permanent Lok Adalat, Chennai. Subsequent thereto, he was issued with notification No. 307/2021 in ROC No. 4014/2017/B1/Spl.Cell dated 17.12.2021 stating that consequent upon the impugned Government Order dated 30.11.2021 in G.O.Ms. No. 1006, Public (Special-A) on the file of the 2nd respondent compulsorily retiring him, he was relieved from the Tamil Nadu State Judicial Service with effect from the date of service of the said G.O. Hence, the present writ petition.

3. According to the petitioner, though by Official Memorandum dated 20.05.2021, a show cause notice was issued levelling serious allegations and a detailed explanation sought was also submitted by the petitioner meeting out each and every allegation on 10.06.2021, the decision taken to relieve the petitioner on compulsory retirement, is stigmatic and is



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based on no material. Further, according to the petitioner, he has neither faced any disciplinary proceedings nor enquiry. It is also contended on behalf of the petitioner that even his request dated 05.10.2021 for voluntary retirement has been rejected by proceedings dated 01.11.2021. No reason whatsoever has been stated for rejecting the said requisition for voluntary retirement and also it is not known whether it was even placed before the Administrative Committee/Full Court for consideration. Inasmuch as the benefits that are going to accrue by means of voluntary retirement and compulsory retirement by way of punishment would be the same, his request for voluntary retirement could have been considered. Moreover, according to the learned counsel, the petitioner's request for voluntary retirement was pending even prior to the recommendation of the 1st respondent to the 2nd respondent to issue Government Order to compulsorily retire the petitioner from service and his request could have been acceded to. Learned counsel also relied on the order dated 21.06.2022 passed in W.P. No. 8852 of 2022 and the order dated 04.03.2022 in W.P. No. 11885 of 2021 in support of his contentions.

4. On the other hand, Mr.Karthik Ranganathan, learned counsel appearing for the 1st respondent would submit that as regards the contention of the petitioner that his request for voluntary retirement could



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have been considered, he drew the attention of this Court to Rules 56(2) & 56(3) of Fundamental Rules, which deal with compulsory retirement and voluntary retirement. When the Appointing Authority comes to the conclusion that in public interest, it is not advisable to continue a Government Servant in service, who has attained the age of 50 or 55 years, he has absolute right to retire him by giving 3months' notice in writing or 3 months pay and allowances in lieu of such wages, in case of compulsory retirement. In case of voluntary retirement, the Government Servant concerned will have to make an application to the Appointing Authority and there should be no disciplinary proceedings contemplated or pending against the Government Servant for imposition of major penalty. In the case on hand, the learned counsel for the 1st respondent submitted that the petitioner was not fully qualified for voluntary retirement under Rule 56(3)(e) of the Tamil Nadu Fundamental rules, since disciplinary proceedings had already been initiated by the time the request for voluntary retirement was made by the petitioner. The learned counsel would further submit that on the basis of complaints received in Vigilance Cell against the petitioner, it was resolved by the Hon'ble Full Court, in the meeting held on 02.03.2021 to place the petitioner under suspension in contemplation of departmental enquiry into the grave allegations levelled against him with regard to possession of



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disproportionate assets. An explanation was called for from the petitioner and his explanation dated 10.06.2021 was placed before the Hon'ble Administrative Committee, which resolved to reject the same on finding it to be unsatisfactory and directed to frame charges against the petitioner and to call for his written statement of defence. Subsequently, the Hon'ble Full Court in the meeting held on 30.09.2021, on a careful review of the Service Records, Work done Statements, overall performance, quality of judgments and general reputation of the petitioner, had unanimously decided not to continue him in service, in public interest, under Fundamental Rule 56(2). When the petitioner has been compulsorily retired, in public interest, the same cannot be found fault with and the petitioner cannot seek relief of reinstatement or permission to go on voluntary retirement. According to the learned counsel, an order of compulsory retirement is neither punitive nor stigmatic and if it is based on subjective satisfaction of the employer by looking into all the relevant materials on record, to retire any Government Servant compulsorily from service, in public interest, no interference is called for with such orders passed in public interest.

5. Heard both parties.



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6. To reiterate the facts, the petitioner was appointed as Civil Judge (Junior Division) in the Tamil Nadu State Judicial Service on 10.12.1999. He was promoted to the cadre of Senior Civil Judge on 18.02.2011 and subsequently promoted to the cadre of the District Judge on 27.09.2016. While so, he was placed under suspension vide proceedings of the 1st respondent dated 04.03.2021. Thereafter, vide official memorandum dated 20.05.2021, on the file of Registrar (Vigilance), serious allegations were levelled against the petitioner and the petitioner submitted his detailed explanation on 10.06.2021. The explanation was found to be unsatisfactory by the Administrative Committee and charges were directed to be framed. In the meanwhile, the Hon'ble Full Court, taking up the petitioner's case for review, unanimously decided not to continue him in service beyond the age of 50 years, in public interest, under Fundamental Rule 56(2). Thereafter, he was issued with the impugned orders compulsorily retiring him from service.

7. The contention of the learned counsel for the 1st respondent is that a person, who is sent out on compulsory retirement is going out without stigma, that the order of compulsory retirement is neither punitive nor



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stigmatic and that it is only a warning signal to those in the departments that they should be careful. We also make it clear that it does not cast a stigma.

Though it is contended on behalf of the petitioner that the order of compulsory retirement was passed without application of mind and without any evidence or material, as evident from the counter, the Hon'ble Full Court had carefully reviewed the Service Records, work done statements, overall performance, quality of Judgments and general reputation of the petitioner and unanimously decided not to continue him in service, in public interest, under Fundamental Rule 56(2). For the sake of convenience, Fundamental Rule 56(2) is extracted hereunder:

“56 (2):Compulsory retirement-Notwithstanding anything contained in this rule, the appropriate authority shall, if it is of the opinion that it is in public interest so to do have the absolute right to retire any Government Servant by giving him notice of not less than three months in writing or three months’ pay and allowances in lieu of such notice at any time after he has attained the age of fifty years or fifty five years in the case of Basic Servants, as the case may be, or after he has completed thirty years of qualifying service.

When the reason stated for compulsorily retiring the petitioner is, that in the interest of public, as



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contemplated under FR 56(2), the appointing authority has taken such a decision after subjective satisfaction, by looking into all the relevant materials, the said order cannot be interfered with.

8. Further, a reading of the counter affidavit filed by the 1st respondent, especially, paragraph No.16 would make it amply clear that the petitioner's representation for voluntary retirement was placed before the Hon'ble Administrative Committee and the Administrative Committee on 28.10.2021 had resolved to reject the request for voluntary retirement since the Full Court, in its resolution dated on 30.09.2021 had resolved not to continue the services of the petitioner and the same was also informed to the petitioner on 01.11.2021. Therefore, the petitioner's contention that his request for voluntary retirement was rejected without any reason cannot be sustained.

9. In the light of the foregoing discussion, this Court is of the view that the decision taken by the Administrative Committee to retire the petitioner compulsorily as confirmed by the Full Court and the Government Order issued are perfectly in order. Neither the petitioner can be reinstated by quashing the order of compulsory retirement nor the order of



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Compulsory Retirement can be converted into one of Voluntary Retirement as it would amount to giving a premium to the delinquent, against whom serious allegations have been levelled and also defeat the very object and purpose of FR 56(2) .

10. The writ petition stands dismissed. No costs.

(S.V.N.J.) (K.R.S.J.)
29.09.2023

nv

To

1. The Registrar General,
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Chennai – 600 104.
2. State of Tamil Nadu,
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The Chief Secretary to Government
Public (Special -A) Department,
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