



W.P.No.27185 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.27185 of 2023

T.Dhanasekaran

... Petitioner

Vs.

1.The Secretary to Government,
Revenue and Disaster Management Department,
Fort St.George,
Chennai-08.

2.The Director of Survey and Settlement,
Chepauk,
Chennai-05.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by the 2nd respondent in Rc.Y2/16444/2016(sy)(1) dated 20.12.2017, Rc.Y2/16444/2014(sy)(2) dated 20.12.2017 and Na.Ka.la2/5852/2022 (ni.a) dated 23.03.2023 and quash the same and further direct the respondents to permit the petitioner to retire from service and to settle the retirement benefits within a reasonable time.

For Petitioner : Mr.K.Venkataramani, Senior Counsel

For Respondents : Mr.V.Jeevagiridharan,
Additional Government Pleader



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ORDER

Challenging the impugned orders in Rc.Y2/16444/2016(sy)(1) dated 20.12.2017, Rc.Y2/16444/2014(sy)(2) dated 20.12.2017 and Na.Ka.la2/5852/2022 (ni.a) dated 23.03.2023 passed by the 2nd respondent, this Writ Petition has been filed.

2.The case of the petitioner is that while he was working as Deputy Inspector of Survey and Land Records, Velacherry Taluk Office, Chennai, he was placed under suspension *vide* impugned order, dated 20.12.2017. In the departmental proceedings, it is concluded that the charges levelled against the petitioner is not proved and thereby, the petitioner was exonerated *vide* G.O.(2D)No.246, Revenue and Disaster Management Department, Services Wing, Service 10(1) Section, dated 11.11.2022. On the strength of it, the petitioner has given a representation to allow him to retire from service and to give all retirement benefits, however, the same has been rejected *vide* impugned order, dated 23.03.2023 stating that since a criminal case is pending against the petitioner, the terminal benefits will be paid to him subject to the outcome of the criminal case. Challenging the above said impugned orders, the present Writ Petition has been filed.

3.The learned Senior Counsel appearing for the petitioner



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submitted that once the departmental proceedings ended in favour of the delinquent/petitioner, the suspension cannot be extended merely citing the pendency of other criminal case in Crime No.182 of 2011, for offence under Sections 468, 474 r/w 34 of IPC, hence, the petitioner is permitted to retire from service and he is entitled for terminal benefits. He further submitted that if at all any criminal case already initiated against the petitioner ended in conviction, it is open to the department to proceed against the petitioner under Rule 17(c) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4.Heard the submissions of the learned Senior Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

5.It is brought to the notice of this Court with regard to pendency of criminal case against the petitioner in Crime No.182 of 2011, for alleged offence under Sections 468, 474 r/w 34 of IPC. Originally, the FIR has been registered against five accused, in which, the petitioner's name did not find place. Be that as it may, it is now stated that the petitioner is also



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arrayed as accused in the said FIR. It is relevant to note that the petitioner has not been proceeded and no action has been taken departmentally on the basis of the said FIR in Crime No.182 of 2011. Since there is no charge or proceedings against the petitioner based on the FIR registered in the year 2011, this Court is of the view that the same cannot be put against the petitioner now.

6.In such view of the matter, the impugned orders cannot be sustained in the eye of law. Accordingly, this Writ Petition is allowed and the impugned orders passed by the 2nd respondent dated 20.12.2017, 20.12.2017 and 23.03.2023 are quashed with the following directions.

(i)The respondents are directed to permit the petitioner to retire from service without prejudice to any punishment that may be imposed on the basis of the criminal case (FIR in Crime No.182 of 2011) by invoking Rule 17(c) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

(ii)The respondents shall release the General Provident Fund and



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Special Provident Fund to the petitioner immediately and the remaining amount of Earned Leave and Gratuity shall be given to the petitioner subject to the result of the criminal case.

15.09.2023
(1/2)

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Secretary to Government,
Revenue and Disaster Management Department,
Fort St.George,
Chennai-08.

2.The Director of Survey and Settlement,
Chepauk,
Chennai-05.



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N.SATHISH KUMAR, J.
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