



W.P.No.30366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30366 of 2023
and
W.M.P.Nos.29955 & 29956 of 2023

K.Chindhanai Selvam

...Petitioner

-Vs-

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 9.

2.The Inspector General of Registration,
100, Santhome High Road,
Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.(2D) No.54, dated 30.12.2014 and the consequential order in G.O.(2D) No.56, dated 31.12.2014 and quash the same, in the light of the orders of this Court in W.P.Nos.2194 & 2198 of 2023 dated 27.01.2023 and declare that the petitioner stands retired with effect from 31.12.2014 and consequently direct the respondents to sanction full pension along with commutation, gratuity, earned leave encashment,



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general provident fund and all other admissible terminal benefits together with interest at 9% per annum from the date of retirement.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.M.Alagu Gowtham,
Government Advocate

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. Through a charge memo dated 10.11.2014, the petitioner was levelled with certain charges under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The charge memo was subsequently revised on 18.12.2014. When there was an inordinate delay in conclusion of the charges, the petitioner had originally filed a writ petition in W.P.(MD) No.19913 of 2014 challenging the charge memo, in which an order dated 19.11.2020 came to be passed, directing the disciplinary authority to complete the proceedings at the earliest by following the procedures and by providing opportunity to the writ petitioner. In spite of such a direction, the departmental proceedings were kept pending for 3 more years, which



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prompted the petitioner to once again challenge the charge memos in

W.P.Nos.2194 of 2023 and 2198 of 2023. The said writ petitions came to be

disposed of on 27.01.2023 with the following directions:-

W.P.No.2194 of 2023

“5..... In view of the same, this writ petition is disposed of with a direction to the respondents to complete the disciplinary proceedings and to pass final orders, within a period of three months from the date of receipt of copy of this order. It is made clear that the petitioner will co-operate for the completion of the proceedings, within the time limit fixed by this Court without adopting any dilatory tactics. If the final order is not passed within three months as fixed by this Court, the entire disciplinary proceedings against the petitioner will stand lapsed and thereafter, the petitioner will be entitled for all the consequential benefits.”

W.P.No.2198 of 2023

6. In view of the same, there shall be a direction to the respondents to pass final orders in the pending disciplinary proceedings, within a period of three months from the date of receipt of copy of this order. It is made clear that the petitioner will co-operate for the



completion of the proceedings, within the time limit fixed by this Court without adopting any dilatory tactics. If the final order is not passed within three months as fixed by this Court, the entire disciplinary proceedings against the petitioner will stand lapsed and thereafter, the petitioner will be entitled for all the consequential benefits.”

3. The aforesaid directions are self-explanatory. As per the directions, there was a mandate to the disciplinary authority to complete the proceedings within a period of three months from the date of receipt of the orders passed in the writ petitions, failing which the entire disciplinary proceedings itself would lapse. These orders were communicated to the disciplinary authority by the petitioner through a letter dated 15.02.2023, through registered post with acknowledgement due. In spite of the knowledge of the orders passed by this Court, the disciplinary proceedings are yet to be disposed of till date. Incidentally, when the petitioner was about to retire on 31.12.2014, he was placed under suspension on 30.12.2014 and he was also not permitted to retire.



4. As observed earlier, there is an automatic lapse of the proceedings, in view of the earlier orders passed by this Court and therefore, it is hereby declared that the charges framed against the petitioner, through the charge memos dated 10.11.2014, as well as 18.12.2014, have already been lapsed and ceased to exist. Since the petitioner was placed under suspension and not permitted to retire in view of the disciplinary proceedings contemplated against him, these two orders require to be set aside, on account of lapse of the disciplinary proceedings.

5. This Court, on various occasions, have deprecated the practice of Government Departments in failing to adhere to the time limits prescribed by the Court. In the case of ***B.Krishnan Vs. Tamil Nadu Water Supply & Drainage Board and another*** reported in ***(2008) 4 MLJ 776***, such observations were made by the Hon'ble Division Bench of this Court in the following manner:-

“8. Therefore, when the Court has given time twice to conduct enquiry, the respondents at one time submitted that they have completed the enquiry and sought time for passing final order and on the said representation, three months time was granted. Though



one month time was extended thereafter, no final order was passed. But when a contempt petition was filed by the petitioner for not furnishing the documents for his perusal in order to submit his explanation to the charge memo, which was filed before the rejection of the extension of time for completing the enquiry, the learned Judge, contrary to the order passed by this Court in rejecting the extension petition WPMP.No.3440 of 1998, allowed the petitioner to submit his explanation. In our view, this is contrary to law. Therefore, the impugned orders are liable to be set aside.”

6. Similar views were expressed by the Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu, Personnel and Administrative Reforms (Q) Department and another*** reported in ***(2010) 3 MLJ 625*** in the following manner:-

“23. We are conscious of the fact that if there is non-cooperation of the delinquent officer to comply with the time limit fixed by the Court/Tribunal to complete the enquiry and pass final orders in disciplinary proceedings, the Department cannot be blamed. In such contingency it is for the Department to point out the non-cooperation on the part of the delinquent officer in



finalising the proceeding and the hardships faced by the Department in not strictly adhering to the time schedule due to the fault of the delinquent officer or for any valid reason and get appropriate orders seeking extension of time. At this juncture, it is relevant to point out that even if the time granted originally to complete the enquiry is over, nothing prevented the Department from filing appropriate application after expiry of the time. It is now well settled in law that application seeking extension of time can be filed and the Court are having inherent powers to grant further time, even though the original time granted got expired, based on the principles of invoking inherent powers to meet the ends of justice. In this case, there is no whisper about the non-cooperation of the petitioner in conducting the enquiry and completing the enquiry within the time. Hence the Department is bound to comply with the directions issued by the Tribunal in O.A.No.1535 of 2003.”

7. Thereafter, on 01.06.2023, a notice of hearing was sent by the Enquiry Officer to the petitioner to participate in the enquiry to be held on 06.06.2023, in which the petitioner had also participated. In spite of the same,



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the disciplinary proceedings could not be completed by the disciplinary authority till date.

8. For all the foregoing reasons, the impugned orders dated 30.12.2014 and 31.12.2014 are quashed. Consequently, there shall be a direction to the first respondent herein to pass orders, notionally retiring the petitioner from service with effect from 31.12.2014 and thereby disburse the retirement and other pensionary benefits. Such orders shall be passed within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes
Neutral Citation:Yes
Speaking order
hvk



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WEB COPY To

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M.S.RAMESH,J.

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