



W.P(MD)No.11380 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11380 of 2020

and

W.M.P.(MD)No.9954 of 2020

D.Paulraj

... Petitioner

Vs.

The Superintendent of Police,
Kanyakumari District,
Nagercoil.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders of suspension in D.O.No.268/2020, C.No.L1/13810/2020, dated 29.04.2020 as well as the order of extension of service beyond date of retirement in D.O.No.269/2020, C.No.L1/13810/2020, dated 30.04.2020 on the file of the respondent and quash the same and further directing the respondent to pay the entire monetary claims including the petitioner retirement benefits and pensionary benefits.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.G.Suriyananth
Additional Government Pleader



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ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the impugned suspension order primarily on the ground that it was passed virtually on the eve of his retirement. The fact remains that Crime No.101 of 2018 had been registered against the petitioner on the file of the Puthukadai Police Station for the offence of cheating and forgery. Initially, action dropped report was filed. But later, reinvestigation was ordered and the case is presently pending in C.C.No.148 of 2022 on the file of the Judicial Magistrate, Kuzhithurai. As per Fundamental Rule 56(1)(c), if on the date when the Government servant reaches the age of superannuation, the criminal case is pending investigation or trial, that is a ground for suspending the employee and retain him in service till the disposal of the criminal case.

3. In this view of the matter, the order impugned in the writ petition does not call for interference. The fate of the petitioner will abide by the outcome of the criminal proceedings. Since the only ground on which the petitioner was suspended and retained in service was on account of his involvement in the criminal case, if the criminal case ends in acquittal, the question of initiating any departmental enquiry thereafter will not arise at all. It is for the petitioner to contest the criminal prosecution and expedite the proceedings.



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4. With the observation, the Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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