WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 09.02.2024**

CORAM:

**THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P.No.18068 of 2012**
**and**
**M.P.No.1 of 2012**

D.Devarajan ...Petitioner

-Vs-

1.The Secretary
Revenue Department
Fort St. George
Chennai – 600 009.

2.The District Collector,
Collectorate,
Cuddalore District.

3.The District Revenue Officer,
District Revenue Office,
Cuddalore – 607 001. ...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus calling for the records dated 28.06.2012 passed by the 3rd respondent and the subsequent order made in Roc.No.A3/16393/2012 dated 29.06.2012 passed by the 3rd respondent and quash the same and further directing the 3rd respondent to permit the petitioner to retire from service with all retirement benefits with interest and pass such orders.

WEB COPY



For Petitioner : Mr.S.Arokia Maniraj

For R1 to R3 : Mr.P.Sathish
Additional Government Pleader

**O R D E R**

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 29.06.2012, passed by the 3rd respondent in Roc.No.A3/16393/2012, and further directing the 3rd respondent to permit the petitioner to retire from service with all retirement benefits.

2. The case of the petitioner is that he was appointed as Junior Assistant in the R.D.O Office, Virudhachalam, on 20.12.1982 and then transferred to the Kattumannarkoil Taluk Office as Special Revenue Inspector and posted at Nattarmangalam Check Post on 28.12.1982. Thereafter, he was transferred to the Chidambaram Taluk Office and worked as Junior Assistant. Then the petitioner was promoted as Assistant on 01.07.2005, worked at the Taluk Office in Chidambaram, was transferred as Revenue Inspector, Sethiyathope Firka, in the year 2005 and worked there till 2008. Thereafter, he was again transferred to the Kattumannarkoil Taluk Office and worked as Assistant there. Thereafter, he was transferred to the

https://www.mhc.tn.gov.in/judis

WEB COPY



Temple Lands Taluk Office, where he worked as Assistant and as Special Revenue Inspector (Temple Lands), Chidambaram. The date of his retirement was 30.06.2012. The petitioner was placed under suspension from service in the public interest by order dated 28.06.2012, passed by the 3rd respondent under sub-rule (e) of Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1978, with misconduct and misappropriation of Government money.

3. Learned counsel for the petitioner would submit that the date of superannuation of the petitioner was 30.06.2012. Just two days before his retirement, i.e. 28.06.2012, he was suspended. The suspension order was received by the petitioner on 29.06.2012, the date before his retirement and it is stated that he was not permitted to retire from service until the enquiry was concluded and final orders were passed.

4. Learned counsel further submitted that the allegation of the complaint against the petitioner is that one Mr.Arivazhagan lodged a complaint alleging that one V.A.O, Thiru.T.Annadurai working at Vatharayanthethu Village, committed an offence of misappropriation of

https://www.mhc.tn.gov.in/judis

WEB COPY



Rs.3.70 lakhs in the year 2005 during the disbursement of flood relief funds in collusion with the petitioner herein. The 2nd respondent directed the Revenue Divisional Officer, Chidambaram, to conduct an enquiry and file a report on the above said complaint of misappropriation of money on 12.05.2008, and also on 07.08.2008. Subsequent to the direction of the 2nd respondent, the Tahsildar, Chidambaram, conducted a detailed field enquiry and submitted a report to the Revenue Divisional Officer, Chidambaram, on 15.02.2009, stating that the complainant withdrew the complaint since it was given by vengeance against the petitioner. Hence, there is no need for departmental action against the petitioner and the V.A.O., Thiru.T. Annadurai.

5. Learned counsel would further submit that based on the field report of the Tahsildar, Chidambaram, and the Revenue Divisional Officer, Chidambaram, who submitted a report to the 2nd respondent on 02.04.2009, it clearly stated that the complaint lodged against the petitioner as well as the V.A.O., Thiru.T.Annadurai, as false complaint and there were no irregularities in the process of disbursement of flood relief and no further action is needed on the complaint. However, the 2nd respondent passed the

https://www.mhc.tn.gov.in/judis

WEB COPY



impugned order dated 29.06.2012, after the lapse of three years, not to permit the petitioner to retire from his service. There was an inordinate delay in initiating departmental proceedings from the cause of action of committal of so called offence in 2005, after the lapse of seven years.

6. Learned counsel further submits that the V.A.O., Thiru.T.Annadurai, arrayed as 1st Accused, filed W.P.No.3998 of 2014 before this Court challenged the illegal proceedings of the 2nd respondent for the same cause of offence stated in the complaint. This Court allowed the said writ petition, set aside the impugned order passed against the V.A.O., Thiru.T.Annadurai, and directed the 1st respondent to settle all the terminal benefits due to him.

7. Learned counsel further submitted that since the Tahsildar and R.D.O found and concluded the complaint against the petitioner and V.A.O., Thiru.T.Annadurai, as false and also recommended, no action was needed on the complaint. There is also an exorbitant and inordinate delay of seven years to initiate departmental proceedings, which was also observed by the Hon'ble Supreme Court of India in ***P.V.Mahadevan Vs. M.D. Tamilnadu Housing***

https://www.mhc.tn.gov.in/judis

WEB COPY



***Board***, reported in ***2005 (4) CTC 403***, that such proceedings cannot be allowed since the same is prejudicial to the Government servant. He also submits that the G.O.144 Personal and Administrative Department dated 08.06.2007, wherein the Government has restricted the placing of any Government servant under suspension on the eve of retirement, and the subsequent order passed by the 3rd respondent not allowing the petitioner to retire from service, may be quashed and further direct the 3rd respondent to permit him to retire from service.

8. A counter affidavit was filed on behalf of the 3rd respondent and the relevant paragraph is extracted hereunder:

> **"***I state that the Petitioner and the Village Administrative Officer, Vatharayanthethu, has recommended for payment of food relief amount to 11 persons mentioned some survey numbers against their names for which they were not the actual owners, misappropriated to the tune of Rs.60,000/- and in the same way an amount of Rs.28,875/- was also misappropriated by mentioning the name of 7 some persons whose names were not in the Revenue accounts of the said Village.***"**

9. It is further submitted by the learned Additional Government Pleader that misappropriation caused to Government by the petitioner came to notice by the Vigilance Authorities, and a detailed investigation was conducted to verify the role played by the petitioner. It was established by

https://www.mhc.tn.gov.in/judis

WEB COPY



the Inspector of Police, Vigilance and Anti-Corruption, Cuddalore, that there was *prima facie* evidence to prove the involvement of the petitioner in the offences. After receiving the report in this connection from the Directorate of Vigilance and Anti-Corruption on 21.06.2012, taking into account the gravity of the offence and the financial loss caused, as it was decided that the charges under enquiry against the petitioner may warrant the imposition of major punishments, it was rightly decided to suspend the petitioner from service on 28.06.2012, and not to allow for retirement under Rule 56(1) of Tamil Nadu Government Servants Fundamental Rules on superannuation on 30.06.2012.

10. Heard both sides and perused the materials available on record.

11. In this case, the complaint was given against one T.Annadurai, V.A.O., the petitioner herein, who misappropriated a sum of Rs.3.70 lakhs in the year 2005 during the disbursement of the flood relief fund colluded by the petitioner herein. Thereafter, the 2nd respondent directed the RDO, Chidambaram, to conduct a detailed enquiry and to file a report and based on the direction of the 2nd respondent, the Tahsildar, Chidambaram, conducted a

https://www.mhc.tn.gov.in/judis

WEB COPY



detailed enquiry and submitted a report to the Revenue Divisional Officer on 15.02.2009 requesting that the complainant withdraw the complaint since it was given vengeance against the petitioner. The V.A.O., Thiru.T.Annadurai, has filed the writ petition before this Court.

12. Despite the report given by the RDO Chidambaram dated 02.04.2009, the 2nd respondent, District Collector, Cuddalore District, passed the impugned order on 29.06.2012, after lapse of three years, not to permit the petitioner to retire from service. The V.A.O., namely, Thiru.T.Annadurai, who was arrayed as A1 filed W.P.No.3998 of 2014, challenged the order passed by the 2nd respondent dated 01.07.2014 and this Court has set aside the order passed by the 2nd respondent/District Collector, Cuddalore District, allowed the writ petition and also directed the 2nd respondent to settle for the terminal benefits to which the petitioner is entitled as per the rules.

13. The charges of misappropriation of a sum of Rs.3.70 lakhs were initiated against the petitioner as Special Revenue Inspector and V.A.O., Thiru.T.Annadurai. The charges against Thiru.T.Annadurai were quashed. The proceedings initiated against him by the 2nd respondent was quashed by

https://www.mhc.tn.gov.in/judis

WEB COPY



this Court based on the Sub-Collector, Chidambaram, proceedings dated 31.10.2013, wherein it is stated that the complaint given against the V.A.O., Thiru.T.Annadurai and the same complaint given against the petitioner is also false. That is the reason this Court has set aside the order of the 2nd respondent/District Collector initiating proceedings against the V.A.O., Thiru.T.Annadurai, despite the Sub-Collector, Chidambaram, report dated 12.10.2023.

14. In view of the above facts and circumstances of the case, the impugned order passed by the 3rd respondent in Roc.No.A3/16393/2012 dated 29.06.2012, is hereby quashed and the 3rd respondent is directed to permit the petitioner to retire from service with all retirement benefits with 7% interest within a period of eight weeks from the date of receipt of a copy of the order.

15. In the result, the writ petition stands allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

**09.02.2024**

cda
Index : Yes/No
Speaking/Non Speaking order

WEB COPY



**J.SATHYA NARAYANA PRASAD, J.**

cda

To

1.The Secretary
Revenue Department
Fort St. George
Chennai – 600 009.

2.The District Collector,
Collectorate,
Cuddalore District.

3.The District Revenue Officer,
District Revenue Office,
Cuddalore – 607 001.

**W.P.No.18068 of 2012**

**09.02.2024**

https://www.mhc.tn.gov.in/judis