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W.P. No.8557 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.8557 of 2020

and

W.M.P.No.10345 of 2020

M.Ambikapathy

... Petitioner

Vs.

1.State of Tamil Nadu

rep by its Principal Secretary to Government,
Fort St. George, Chennai-9.

2.Director,

Commissionerate of Rural Development and Panchayat Raj,
Panagal Building,
Chennai-15.

3.District Collector,

Kancheepuram District,
Kancheepuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to G.O.(2D) No.125, Rural Development and Panchayat Raj (E-2) department dated 31.07.2019 and G.O.(2D) No.126, Rural Development and Panchayat Raj (E-2) department dated 31.07.2019 on the file of the 1st respondent herein and quash the same and consequently direct

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the respondents herein to allow the petitioner herein retire from service w.e.f. 31.07.2019 and pay entire retirement benefits due to the petitioner herein with interest.

For Petitioners : M/s.V.R.Rajasekaran

For Respondents : Ms.E.Ranganayaki
Additional Government Pleader.

ORDER

While the petitioner was working as Block Development Officer (Village Panchayat), Chithamur Panchayat Union, he was due for retirement on attaining the age of superannuation on 31.07.2019, the Government issued prior permission through G.O.(3D)No.50, Rural Development and Panchayat Raj(E2) Department, dated 12.09.2019, to the appropriate investigating authority of the Government for registering a regular case against the petitioner as well as 5 other Officers on the allegation of mis-appropriation of Government funds allotted for the schemes, to the tune of R.7,06,492/-. Accordingly, the Government issued G.O in G.O.(2D) No.125, Rural Development and Panchayat Raj (E2) Department, dated 31.07.2019 and another G.O. in G.O.(2D) NO.126, Rural Development and Panchayat Raj (E2) Department, dated 31.07.2019 not permitting the petitioner to retire from service on attaining the age of superannuation with effect from



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31.07.2019, and placing the petitioner under suspension, pending the investigation to be continued against the petitioner and others. Accordingly, the petitioner is being continued under suspension for all these years and her terminal benefits also were not settled as on date.

2. Though, the counter affidavit is filed by the 3rd respondent, nothing is stated about progress of the investigation and enquiry that was initiated against the petitioner.

3. Taking note of the same, this Court, by an order dated 22.04.2024 directed the learned Additional Government Pleader to ascertain about the subsequent developments, i.e., status of the investigation and disciplinary proceedings, if any initiated against the petitioner. Pursuant to the said order, today, the learned Additional Government Pleader brought to the notice of this Court, the instructions furnished by the 2nd respondent, wherein it is stated that after completion of the enquiry, the Directorate of Vigilance and Anti-Corruption (for short 'DVAC') has recommended for dropping of further action against the petitioner as allegation levelled against him are not substantiated.



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4. It is also further stated that the Tamil Nadu Vigilance Commission has also accepted the recommendations of DVAC and forwarded the Vigilance report to the Rural Development and Panchayat Raj Department and orders are awaited from the Government and the relevant said instructions reads as under:

“It is submitted that Government have given permission for registering a Regular Case under Section 17(A) of Prevention of Corruption (Amendment) Act, 2018 vide G.O.(3D) No.50, Rural Development and Panchayat Raj (E2) Department, dated 12.09.2019. After completion of enquiry the DVAC has recommended for dropping of further action against the petitioner since the allegation legelled against him is not substantiated.

The Tamil Nadu Vigilance Commission has also accepted the recommendations of DVAC and forwarded the Vigilance report to the Rural Development and Panchayat Raj Department, Secretariat for issue of necessary orders to drop further action against the petitioner.

It is submitted that the file is under circulation of Government and orders will be issued by Government



within a fortnight.”

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5. In the light of the above, there is no justification in continuing the petitioner under suspension without permitting him to retire from service and not settling terminal benefits. The respondents having come to the conclusion that the allegation levelled against the petitioner are not substantiated and having taken note of the material placed for concluding the said proceedings failed to permit the petitioner to retire from service and pay all his terminal benefits. No such steps have been taken for the past five years.

6. In the circumstances, the writ petition is allowed directing the respondents to pass appropriate orders pursuant to the Vigilance Report already forwarded to the Rural Development and Panchayat Raj Department of the 1st respondent and conclude the proceedings and settle all the terminal benefits with interest in terms of the Rules from the date of superannuation of the petitioner. The entire exercise as directed shall be completed as expeditiously as possible at any rate within a period of eight (8) weeks from the date of receipt of a copy of this order.



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7. Accordingly, the writ petition is allowed. The connected miscellaneous applications, if any, shall stand closed. No costs.

24.04.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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State of Tamil Nadu
Fort St. George, Chennai-9.

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2.The Director,
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MUMMINENI SUDHEER KUMAR,J.

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