



WP.No.10567 of 2023

In the High Court of Judicature at Madras

Dated : 30.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.10567 of 2023 &
WMP.Nos.10497 to 10499 of 2023

Dr.Sivailango

...Petitioner

Vs

1.The Chairman, Perunthalaivar
Kamarajar Kerishi Vigyan
Kendra (PKKNK), Kurumbapet,
Puducherry.

2.The Program Coordinator,
Perunthalaivar Kamarajar
Kerishi Vigyan Kendra (PKKNK),
Kurumbapet, Puducherry.

3.The Disciplinary Authority,
Perunthalaivar Kamarajar
Kerishi Vigyan Kendra (PKKNK),
Kurumbapet, Puducherry.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Memorandum of Charges dated 04.3.2022 in No.2219/PKKVK/Estt./2021-22 issued by the third respondent, quash the same and consequently direct respondents 1 and 2 to disburse retirement benefits to the petitioner with due interest from the date of retirement on 28.2.2017.



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For Petitioner : Mrs.Kanimozhi Mathi
For Respondents : Mr.R.Syed Mustafa, SGP (Pondy)

ORDER

This writ petition has been filed by the petitioner challenging the memorandum of charges dated 04.3.2022 issued by the third respondent and for a consequential direction to respondents 1 and 2 to disburse the retirement benefits to the petitioner with interest.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Pondy) appearing for the respondents.

3. The case of the petitioner is as follows :

(i) The petitioner was appointed as a Junior Assistant on 18.4.1975 in the first respondent society. While he was working as a Junior Accounts-cum-Administrative Officer, he attained the age of superannuation on 28.2.2017. One day before his retirement, the petitioner was served with an order of suspension dated 27.2.2017.

(ii) As against the said order of suspension dated 27.2.2017, earlier, the petitioner filed W.P.No.7493 of 2017 and it was contested by the respondents. Ultimately, the said writ petition was allowed by a learned Single Judge of this Court by order dated 07.1.2020, the



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relevant portions of which are extracted as hereunder :

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"7. The petitioner was allowed to retire on 28.02.2017 and the first respondent permitted the petitioner to retire from service, without issuing any order for not allowing him to retire from service. To that effect, no reason has been stated in the counter affidavit filed by the respondents 1 and 2. Despite several opportunities were given to them to get instructions in this regard, the respondents 1 and 2 are not in a position to place any additional materials or file additional affidavit to clarify the above said query.

8. Based on the available records, this court found that though suspension order was passed on 27.02.2017 against the petitioner on the day before his retirement, no order has been passed not permitting the writ petitioner to retire from his service. The respondents 1 and 2 have not also framed any charges or initiate disciplinary proceedings against the petitioner, on the date of attaining his retirement on superannuation or till date. If any government employee is retired on superannuation and on the date of retirement any disciplinary proceedings or any complaint is pending against him, appropriate order shall be passed by the department not permitting the employee to retire from his service.

9. The learned counsel appearing for the 3rd respondent also reiterate the above said legal position.

10. Therefore, on considering the above said legal position and also the facts of the case, this court opines that the impugned suspension order passed by the first respondent against the writ petitioner is unsustainable and the same is liable to quashed.

11. In view of the above, this court is inclined to



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pass the following order :

i) The impugned order passed by the first respondent dated 27.02.2017 against the writ petitioner is quashed.

ii) in so far as the relief of disbursement of retirement benefits is concerned, the petitioner is directed to make representation to the first respondent.

iii) This order will not stand on the way of Department to proceed against the petitioner in accordance with law.

iv) The writ petition against the 3rd respondent is dismissed as not maintainable."

(iii) Pursuant to the said order dated 07.1.2020, the memorandum of charges dated 04.3.2022 came to be issued against the petitioner and this is put to challenge in this writ petition.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned memorandum of charges.

5. In the considered view of this Court, when the petitioner was allowed to retire from service on 28.2.2017 and when the order of suspension was interfered by this Court in the earlier writ petition only on the ground that the petitioner was allowed to retire without issuing any order not allowing him to retire from service, the very same reasoning will apply to the present case also.



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6. Once an employee is permitted to retire from service, the relationship of employer - employee ceases to exist. In view of the same, there is no question of initiating disciplinary proceedings after superannuation. In the absence of any order not permitting the petitioner to retire from service, the respondents do not have any right to commence the disciplinary proceedings after retirement by issuing a charge memo.

7. On going through the materials, this Court finds that the disciplinary proceedings itself came to be initiated only in order to get away from the contempt petition filed by the petitioner in Cont.P.No. 903 of 2022 for not settling the retirement benefits to the petitioner pursuant to the order dated 07.1.2020 passed in W.P.No.7493 of 2017.

8. In the light of the above discussions, this Court absolutely has no hesitation to interfere with the impugned memorandum of charges dated 04.3.2022 issued by the third respondent.

9. Accordingly, the impugned memorandum of charges dated 04.3.2022 issued by the third respondent is hereby quashed. There shall be a direction to respondents 1 and 2 to settle the retirement



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benefits to the petitioner together with interest at the rate of 6% per annum from the date, on which, it became due and payable till the date of actual payment. This process shall be completed within a period of eight weeks from the date of receipt of a copy of this order. It goes without saying that if the retirement benefits of the petitioner are not settled within the time limit fixed by this Court in this order, the same shall be payable together with interest at the rate of 12% per annum thereafter.

10. In the result, the writ petition is allowed with the above directions. No costs. Consequently, the connected WMPs are closed.

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To

- 1.The Chairman, Perunthalaivar
Kamarajar Kerishi Vigyan
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Puducherry.
- 2.The Program Coordinator,
Perunthalaivar Kamarajar
Kerishi Vigyan Kendra (PKKNK),
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- 3.The Disciplinary Authority,
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N.ANAND VENKATESH,J

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