



W.P.No.14776 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.14776 of 2024

and

W.M.P.Nos.16010 & 16012 of 2024

Major.Boni Vincent (Retd.,)

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Public (Ex-Servicement) Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Director,
Directorate of Ex-Servicemen's Welfare,
22, Rajah Muthiah Salai,
Chennai – 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandaums to call for the records relating to the impugned order issued by the 1st Respondent in Letter efile No.4128/Ex-Ser/2024-1 dated 30.05.2024 and to quash the same and consequently directing the respondents to permit the petitioner to leave the Headquarters from 08.06.2024 to 08.07.2024 to visit UAE for family reasons to see the newly born grandchild.



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For Petitioner : Mr.G.Sankaran
for Mr.S.Nedunchezhiyan

For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

Mr.C.Jayaprakash, learned Government Advocate takes notice on behalf of the respondents.

2. The petitioner was serving in the Indian Army for more than 22 years under various capacities and was retired from service as a Defence Service Group-A Commissioned Officer on 02.03.2006. Thereafter, the petitioner was re-appointed to the Post of Assistant Director in the year 2007 and was about to retire from his service on 30.04.2024. However, the respondents have initiated disciplinary proceedings against the petitioner.

3. Aggrieved by the aforesaid proceedings, the petitioner has challenged the same by way of W.P.No.36366 of 2023. By an Order dated 28.12.2023, this Court had granted Interim Stay. The petitioner has also filed W.P.No.13582 of 2024 and by an Order dated 15.05.2024 Stay was granted.



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4. In the present case, the petitioner's son and his daughter in law who are residing in UAE (United Arab Emirates) were blessed with a girl child and since the petitioner is the grand father of the new born girl child, he made a representation dated 20.05.2024 before the respondents seeking permission to visit UAE (United Arab Emirates) to see his grand daughter. However, the same was rejected vide Impugned Order dated 30.05.2024.

5. The reasons given in the Impugned Order dated 30.05.2024 is that the charges framed against the petitioner are yet to be finalized and the proceedings ought to be expediated and therefore, the permission cannot be granted.

6. When the matter came up for admission today, the matter was passed over by the learned Government Advocate for the respondents to get instructions. The learned Government Advocate upon instructions submits that the disciplinary proceedings are pending and the same have to be finalized and therefore, the permission is rejected.



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8. At the outset, it can be seen that the petitioner is not facing a criminal case but only the departmental proceedings. Therefore, even if the petitioner visits abroad and stays back without returning to India, still the respondents can proceed *ex-parte* and finalize the disciplinary proceedings.

9. The only objection raised by the learned Government Advocate for the respondents is that when the proceedings have to be completed as early as possible in a manner known to law, the absence of the petitioner will only further delay the proceedings.

10. By way of rejoinder, the learned counsel for the petitioner submits that the petitioner has given undertaking that he will proceed to UAE (United Arab Emirates) on 09.06.2024 and will return to India on 08.07.2024. The same stands recorded as an undertaking on the part of the petitioner.



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11. In the result, the Writ Petition stands disposed of with the following

directions:-

- i. Impugned Order dated 30.05.2024 is set aside and the petitioner is permitted to visit UAE (United Arab Emirates) and return back to India on 08.07.2024. If the petitioner delays the matter any further and does not return back to India on 08.07.2024, the respondents are entitled to proceed with the disciplinary proceedings and pass an *ex-parte* Order.
- ii. No costs. Consequently, connected miscellaneous petitions are closed.

07.06.2024

Index : Yes/No
Speaking Order: Yes/No
Neutral Citation :Yes/No
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D.BHARATHA CHAKRAVARTHY, J.

rgm

To

1. The Secretary to Government,
The State of Tamil Nadu,
Public (Ex-Servicement) Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director,
Directorate of Ex-Servicemen's Welfare,
22, Rajah Muthiah Salai,
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