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W.P.No.17843 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17843 of 2024

and

W.M.P. No. 19589 of 2024

N.Gopal

... Petitioner

Vs

1. The Principal Secretary,
Labour Welfare & Skill Development Department,
Secretariat,
Chennai – 600 009.
2. The Principal Secretary/Commissioner of Labour,
Theynampet,
Chennai – 6.
3. Assistant Commissioner of Labour/
Labour Officer (Social Security Scheme),
Gorimedu,
Salem – 636 008.
4. The Superintendent of Police,
Vigilance and Anti-Corruption Police Station,
No. B-3, Rajaji Street,
Swarnapuri,
Salem – 636 004.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 29.05.2024 in proceedings No. F1/14786/2024 of the second respondent and quash the same as illegal and consequently direct the second respondent to allow the petitioner to retire with all monitory benefits.

For Petitioner : Mr. L.Rajendran

For Respondents : Mr. S.Arumugam,
Government Advocate

O R D E R

The Writ Petition has been filed challenging the order dated 29.05.2024 passed by the second respondent, thereby, the petitioner two days before his age of superannuation, was suspended.

2. The petitioner was appointed as Record Clerk and subsequently promoted to the post of Deputy Inspector of Labour at Tiruchengode. While that being so, in the year 2018, the First Information Report was registered in Crime No. 6 of 2018 for the offences punishable under Section 13(2) of the Prevention of Corruption Act, 1988 r/w Section 13(1) (c) and (d) and



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Sections 120-B, 409, 467, 468, 471 and 477A of IPC alleging that the petitioner and two others had misappropriated the funds to the tune of Rs.2,67,000/-. Since the enquiry is pending, the petitioner was not allowed to retire from service, by suspending him vide order dated 29.05.2024.

3. The learned counsel for the petitioner submitted that the petitioner was suspended from service just two days before his age of superannuation, which is in clear violation of Government Order in G.O. (Ms). No. 111, Human Resources Management (N) Department dated 11.10.2021. The said Government Order mandates that to avoid suspension on the date of retirement, a decision should be taken well in advance, i.e., three months prior to the date of retirement on superannuation, if final orders cannot be issued in a pending disciplinary case against a Government servant retiring from service due to administrative grounds. Therefore, the impugned order of suspension cannot be sustained in the very same Government Order in G.O. (Ms). No. 111, Human Resources Management (N) Department dated 11.10.2021, specifically clauses (vii) and (viii), which reads as follows:-



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“(vii) Where the delinquency committed by a Government servant is very grave which warrant imposition of major penalty such as dismissal or removal from service and if it is not possible to frame charges to initiate action before retirement or to pass final orders in such departmental proceedings, then it is necessary to suspend the Government Servant from service and not to permit him to retire on attaining the age of superannuation under Fundamental Rule 56(1)(c). In such cases also the disciplinary authorities have to ensure that the suspension orders are not issued on the date of retirement of the Government Servants.

(viii) In respect of Directorate of Vigilance and Anti-Corruption and Tribunal for Disciplinary proceedings cases, if any delay on their part, the disciplinary authorities should take up the matter with the Directorate of Vigilance and Anti-Corruption or Tribunal for Disciplinary Proceedings to expedite such cases and



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issue of final orders within the time limit prescribed. In unavoidable circumstances, if final orders could not be issued, even in such cases, the disciplinary authorities should take a decision well in advance and not to place him under suspension on the date of retirement.”

4. When a Government servant is alleged to have committed a serious and grave offence warranting major penalty, such as, dismissal or removal from service, and if it is not possible to frame charges or initiate departmental proceedings before retirement, or to pass final orders, then suspension from service may be necessary. In such cases, the government servant may not be permitted to retire upon attaining the age of superannuation, as per Fundamental Rule 56(1)(c). Therefore, the petitioner, who is alleged to have been involved in a grave offence, cannot be permitted to retire, and this Court finds no infirmity or illegality in the order passed by the second respondent.



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5. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No
Neutral Citation: Yes/No
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