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W.A.No.3023 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.12.2024**

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THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

Writ Appeal No.3023 of 2024

and C.M.P.No.22671 of 2024

1.The State Of Tamilnadu

Rep. By Its Principal Secretary To Government,
Home (Police XVII) Department, Secretariat,
Fort St.Geroge, Chennai- 600 009.

2.The Director General of Police / Director

Fire and Rescue Services, Egmore
Chennai 600 008.

... Appellants

-Vs-

S.Vijayasekar

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order dated
19.07.2024 made in W.P.No.15660 of 2024.

For Appellants : Mr.S.Yashwanth,
Additional Government Pleader

For Respondent : Mr.G.Sankaran, Senior Counsel
for S.Nedunchezhiyan



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JUDGMENT

(Judgment of the Court was delivered by **R. Suresh Kumar, J.**)

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This intra Court appeal has been directed against the order passed by the Writ Court dated 19.07.2024 made in W.P.No.15660 of 2024.

2. Against the respondent / writ petitioner, there has been a criminal proceedings, pursuant to which he has been placed under suspension by order dated 03.10.2023. When the respondent / writ petitioner made a request to revoke the suspension, that was considered and rejected by the appellants by order dated 22.11.2023, which was under challenge in the said writ petition in W.P.No.15660 of 2024.

3. When this writ petition came to be disposed of by the impugned order dated 19.07.2024, the fact that remained was, the charge memo filed before the criminal court under the Prevention of Corruption Act in Spl.C.C.No.6 of 2023 at Sub Court, Coimbatore in Criminal M.P.No.913 of 2023 was challenged by way of a quash petition. The said petition was allowed by the order of this Court in CrI.R.C.No.766 of 2024 dated 10.07.2024. Therefore, insofar as the criminal charge is concerned, it has become final that there has been no charge against the delinquent.



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4. This has been mainly considered by the learned Judge as well as the recommendatory report sent by the second respondent / Director General of Police supporting the case of the delinquent / writ petitioner to revoke the suspension. The learned Judge passed the impugned order dated 19.07.2024 directing the respondents therein, who are the appellants herein to pass orders revoking the suspension against the delinquent / writ petitioner within a time frame.

5. As against which, though this intra Court appeal had been directed, when the case is taken up for hearing, it is brought to our notice by Mr.G.Sankaran, learned Senior Counsel appearing for the respondent / writ petitioner that, in the meanwhile the delinquent has reached superannuation on 31.07.2024. However, he was not permitted to retire and a Government Order in G.O.2D.No.244, Home Department dated 31.07.2024 had been issued by the first appellant not permitting the respondent / writ petitioner to retire as the charge memo since has been issued on 03.05.2024. The charge memo dated 03.05.2024 as well as G.O.2D No.244, Home Department dated 31.07/2024 had been put to challenge in two separate writ petitions filed by the respondent / writ petitioner herein in W.P.Nos.24167 and 24170 of 2024 and both the writ petitions were allowed by the writ Court on 24.09.2024.



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6. The fact remains that as on date, there is no criminal charge against the respondent / writ petitioner and there is no charge memo on the disciplinary proceedings initiated by the employer is pending and the order not permitting to retire as stated supra since has been quashed, there could be no impediment for the writ petitioner to retire peacefully as he had already reached superannuation on 31.07.2024. Therefore, absolutely there is no error in the order passed by the learned Judge directing the appellant department to revoke the suspension, which has already been issued against him dated 03.10.2023, by the order impugned dated 19.07.2024.

7. Resultantly, the following orders are passed in this writ appeal.

- (a) That the impugned order passed by the writ Court dated 19.07.2024 is sustained. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.
- (b) In view of the same and in view of the aforesaid facts and circumstances, where, subsequent to the impugned order since further orders have been passed in the other two writ petitions as stated supra by the writ Court on 24.09.2024, the appellant Department is hereby directed to implement those orders by permitting the respondent / writ petitioner to retire from service peacefully by taking the superannuation date as 31.07.2024.



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(c) It is needless to mention that on such event, the respondent / writ petitioner is entitled to get all service benefits, which shall be complied with by the appellant Department within a period of two months from the date of receipt of a copy of this order.

8. With the above directions, this Writ Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N.,J.)
09.12.2024

KST
Index : Yes/No
NCS : Yes/No



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