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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.10.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.25029 of 2024

A.Nachan

..Petitioner

Vs.

1. Government of Tamil nadu,
Rep. By the Principal Secretary Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai 600 009.

2. Additional Chief Secretary / The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records from the respondents 1 and 3, quash GO (2D) No.01, Municipal Administration and Water Supply (MC3) Department dated 30.01.2024 issued by the 1st respondent, GO (2D) No.02, Municipal Administration and Water Supply (MC3) Department dated 31.01.2024 issued by the 1st respondent and the



consequential order of the 2nd respondent dated 31.01.2024 bearing G.D.C.No.E1/002077/2023 as illegal, arbitrary and contrary to law and consequently, direct the respondents to revoke the order of suspension, permit the petitioner to retire and further direct the respondents to settle all the terminal benefits including pension, arrears of pension, commuted value of pension, gratuity, encashment of earned leave, balance of general provident fund etc.,

For Petitioner : Mr.Balan Haridas
For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Dr.T.Seenivasan
Special Government Pleader for R1
Mrs.P.T.Ramadevi
Standing counsel for R2

ORDER

This writ petition has been filed challenging the proceedings of the respondents 1 and 2 dated 30.01.2023 and 31.01.2024 and for a consequential direction to the respondents to revoke the order of suspension and permit the petitioner to retire from service and for a further direction to the respondents to settle all the terminal benefits including pension, arrears of pension, commuted value of pension, gratuity, encashment of earned leave and arrears of general provident fund, within the time stipulated by this Court.



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2. When the matter came up for hearing on 30.08.2024, this Court passed the following order :-

Mr.K.Suresh, learned Government Advocate, takes notice on behalf of the 1st respondent.

2. Mrs.P.T.Ramadevi, learned Standing counsel takes notice on behalf of the 2nd respondent.

3. The learned Standing counsel for the 2nd respondent shall take instructions as to whether any criminal proceedings are pending against the petitioner. In the absence of the same, the suspension of the petitioner need not continue and he can be considered for the payment of terminal benefits.

4. Post this case at the end of the motion list on 09.09.2024.

3. The matter was thereafter listed on 09.09.2024 and the following order was passed by this Court :-

This Court had specifically directed the learned Standing Counsel for second respondent to take instructions as to whether any criminal



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case is pending against the petitioner.

2. When the matter was taken up for hearing today, learned Standing Counsel produced the letter dated 17.08.2023 whereby permission was accorded to Directorate of Vigilance and Anti-Corruption to enquire certain persons, which also included the name of the petitioner. There is no dispute with respect to the fact that the petitioner was called for enquiry by the Directorate of Vigilance and Anti-Corruption. The issue is as to whether the enquiry ultimately translated into registration of a First Information Report and as to whether the petitioner was added as an accused in this case. In the absence of the same, there is no need for continuing the suspension of the petitioner and the petitioner may be permitted to retire from service.

3. Learned Standing Counsel appearing for second respondent is directed to take specific written instructions in this regard before the next date of hearing.

Post this case at the end of motion list on 18.09.2024.



4. The case was once again listed for hearing on 18.09.2024 and the following order was passed by this Court :-

Pursuant to the earlier order passed by this Court on 09.09.2024, a status report has been filed by the 2nd respondent and the relevant portion in the status report is extracted hereunder:

“14.I respectfully submit that the Director of Vigilance and Anti Corruption vide letter No.RC.228/2024/PUB/HQ, Dated: 17.09.2024 has informed that First Information Report in FIR No.DVAC Hqrs in Cr.No.3/2024 was registered by the Directorate on 17.09.2024 u/s 120-B r/w 420 IPC, Sections 13(2) r/w 7 and 13(1) (a) of Prevention of Corruption (Amendment) Act, 2018 r/w 109 IPC against Tr.S.P.Velumani (A-1), MLA, formerly Minister for Municipal Administration, Rural Development & Special Programme Implementation, 2) Tr.A.S.Murugan (A-2), Executive Engineer, 3) Tr.K.Chinnachami (A-3), Executive Engineer, 5)



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Tr.V.Periasamee (A-5), Executive Engineer, 6) Tr.V.Chinnadurai (A-6), Executive Engineer, 7) Tr.A.Nachan (A-7), Executive Engineer, 8) Tr.D.Sugumar (A-8) Zonal Officer, formerly Executive Engineer. 9) Tr.K.Vijayakumar (A-9), Superintending Engineer 10) Tr.L.Nandhakumar (A-10), Chief Engineer, formerly Superintending Engineer, 11) Tr.M.Pugalendi (A-11), Chief Engineer (Retd), Greater Chennai Corporation, Chennai and others, Officials of Chennai Corporation and Private individuals. The investigation is in progress.”

2.The learned counsel for the petitioner seeks for some time to take instructions.

3.Post this case at the end of the motion list on 25.09.2024.

5. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that the petitioner has not been settled with the terminal benefits like Gratuity, provident fund, earned leave and that those



amounts cannot be retained, irrespective of the final result in the disciplinary proceedings. To substantiate his submission, the learned counsel relied upon the judgement of the Division Bench in WA No.3401 of 2023 dated 11.12.2023.

6. Heard Mr.Balan Haridas, learned counsel for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General Assisted by Dr.T.Seenivasan, learned Special Government Pleader for 1st respondent and Mrs.P.T.Ramadevi, learned Standing counsel for 2nd respondent.

7. It is quite clear from the status report that was filed by the 2nd respondent that the petitioner has been arrayed as A7 in the FIR in which investigation is pending in Crime No.03 of 2024. Hence, there is no question of interfering with the order of suspension and the order not permitting the petitioner to retire from service.

8. The only other consideration is with respect to the release of those amounts over which the petitioner has a right to receive irrespective of the final result in the disciplinary proceedings.



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9. It is now too well settled that even if a person is dismissed from service, he will always be entitled for payment of general provident fund, Special provident fund, earned leave encashment benefit etc., This position of law was explained by the Division Bench in the order that was relied upon by the learned counsel for the petitioner.

10. In view of the above, it will suffice if a direction is issued to the 2nd respondent to entertain the claim made by the petitioner for the payment of those amounts to which the petitioner is entitled as per the judgement of the Division Bench. Those amounts shall be settled to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

11. This writ petition is disposed of with the above directions. No costs.

01.10.2024

Internet : Yes

Index : Yes

Speaking Order / Non Speaking Order



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N. ANAND VENKATESH, J.

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To

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