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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.24915 of 2024
and WMP No.27261 of 2024

N.Dhandapani

... Petitioner

Vs.

1. The Director,
Medical Education and Research Department,
Kilpauk, Chennai 600 010

2. The Dean,
Rajiv Gandhi Government General Hospital,
Chennai

... 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 on the file of the 1st respondent in Ref.No.43793/SCI/2/2019 dated 26.06.2024 and subsequent orders of the 1st respondent in Ref.No.43793/SCI/2/2019 dated 28.06.2024 and quash the same and consequently, permit the petitioner to retire



from service with effect from date of superannuation with all attended and terminal benefits.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.M.Bindran
Additional Government Pleader
for R1 and R2

ORDER

This writ petition has been filed challenging the proceedings of the 1st respondent dated 26.06.2024 placing the petitioner under suspension and the subsequent order dated 28.06.2024, not permitting the petitioner to retire from service and for a consequential direction to the respondents to permit the petitioner to retire from service and to pay his retirement benefits.

2. Heard Mr.P.Kannan Kumar, learned counsel for the petitioner and Mr.M.Bindran, learned Additional Government Pleader for respondents 1 and 2.

3. In the instant case, the petitioner was working as a Superintendent at Government Kumaramangalam Medical college and hospital, Salem. An FIR came to be registered by DVAC in Crime No.6 of 2015 on 31.03.2015. The



petitioner was also arrayed as an accused. On completion of the investigation, a police report was also filed before the Special Court, Salem, which was taken on file in CC No.12 of 2020.

4. The grievance of the petitioner is that no departmental proceedings were instituted and after a prolonged period of eight years, the 1st respondent served a charge memo on the petitioner on 01.08.2023. This charge memo is in line with the charge for which the petitioner is facing criminal proceedings before the competent Court.

5. The petitioner gave a detailed reply for the charge memo and the grievance of the petitioner is that he was not permitted to retire from service and he was also placed under suspension.

6. It is under these circumstances, the present writ petition has been filed before this Court challenging the order of suspension and the order not permitting the petitioner to retire from service.



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7. The learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of respondents submitted that there has been no substantial improvement in the criminal case that is pending before the Special Court, Salem.

8. In the considered view of this Court, the charge memo issued to the petitioner is directly relatable to the criminal case that is pending against the petitioner. Therefore, the departmental proceedings cannot be finalized since it will have a bearing on the criminal case. The only way out is to complete the criminal proceedings at the earliest. The final result in the criminal proceedings will have a direct bearing on the departmental proceedings pending against the petitioner.

9. In view of the above, this Court is not inclined to interfere with the order of suspension passed against the petitioner and the order not permitting the petitioner to retire from service. The petitioner is any way paid with subsistence allowance regularly. Therefore, it is not as if the petitioner is struggling for his livelihood. It will be more appropriate to direct the Special Court to complete



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the criminal case within a time frame. It is also made clear that the petitioner will be entitled to be paid with other terminal benefits which does not have anything to do with the criminal case pending against the petitioner. Useful reference can be made in this regard to the judgement of the Division Bench in *[Secretary to Government, Revenue Department, Secretariat Vs.K.Palaniyandi]* reported in 2019 (5) CTC 19.

10. In the result, this writ petition is disposed of with a direction to the learned Special Judge, dealing with exclusive trial of Vigilance cases at Salem, to dispose of CC No.12 of 2020 within a period of six months from the date of receipt of a copy of this order. The learned Special Judge shall ensure that the trial is conducted on a day today basis in accordance with the guidelines given by Hon'ble Supreme Court reported in **Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]**. If any of the accused person adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the accused persons and remand them to custody as per the judgment of the Hon'ble Supreme Court in **STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)**. The accused persons shall ensure that the criminal proceedings are completed within the time frame fixed by this Court.



Subject to the final result in the criminal case, the petitioner is permitted to work out his remedy in the departmental proceedings. No costs. Consequently, the connected miscellaneous petition is closed.

02.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
rka

To

1. The Director,
Medical Education and Research Department,
Kilpauk, Chennai 600 010

2. The Dean,
Rajiv Gandhi Government General Hospital,
Chennai

N.ANAND VENKATESH.,J
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