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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.30302 of 2023
and W.M.P.Nos.29892 & 29893 of 2023

M.Thirunavukkarasu

... Petitioner

Vs.

1.Tamil Nadu Veterinary and Animal Sciences University,
Rep. by its Registrar,
Madhavaram Milk Colony,
Chennai – 600 051.

2.The Dean,
Madras Veterinary College,
Chennai – 600 007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the orders impugned dated 21.04.2023 made in Proc. No.2723/ Estt/ B1/ MVC/ 2023 passed by the 2nd respondent and the Proc. No. 4798/ LO/ 2023 dated 25.04.2023 passed by the 1st respondent, quash the same and consequently direct the respondents to permit the petitioner to retire from the date of superannuation on 30.04.2023 with all attendant service benefits.



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For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.Vijayakumar
Standing Counsel for
Mr.J.Melwin Jabaz
Standing Counsel

ORDER

This writ petition has been filed against the impugned proceedings dated 21.04.2023 passed by the 2nd respondent placing the petitioner under suspension and the proceedings of the 1st respondent dated 25.04.2023, not permitting the petitioner to retire from service.

2.The case of the petitioner is that he was working as a Professor at the Department of Livestock Business Management and on 21.04.2023, he was placed under suspension by the 2nd respondent on the ground that an intimation has been received to the effect that an FIR has been registered in Crime No.5 of 2023 for offence under Sections 498A and 406 of IPC at Sembium All Women Police Station, Peravallur, Chennai. In view of the same, since the respondents contemplated proceedings for grave charges against the petitioner for violating the Code of Conduct, the petitioner was suspended from service.



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3.The further case of the petitioner is that his date of superannuation was 30.04.2023. On 25.04.2023, proceedings came to be issued by the 1st respondent not permitting the petitioner to retire from service.

4.The grievance of the petitioner is that right from the date of his appointment in the year 1989, he has shown utmost care and devotion towards his work and had submitted various research papers and had participated in various Conferences. That apart, he was also awarded on various occasions both at the International and National levels and also at the State Level and University Level. While having such meritorious service and the petitioner was about to retire from service, the order of suspension came to be passed by the 2nd respondent and the 1st respondent passed the subsequent order not permitting the petitioner to retire from service. It is under these circumstances, the present writ petition came to be filed before this Court.

5.The 1st respondent has filed a counter affidavit. The 1st respondent has taken a stand that an FIR was registered in Crime No.5 of 2023 in which the



petitioner was arrayed as an accused. In view of the same, the petitioner has violated the Code of Conduct of the University and therefore, a suspension order came to be passed against the petitioner. Thereafter, the petitioner was not permitted to retire from service, since the University wanted to initiate disciplinary proceedings against the petitioner for violation of the Code of Conduct. The 1st respondent in the counter affidavit has placed specific reliance upon FR 56(1)(c) to justify the order passed against the petitioner not permitting him to retire from service. Insofar as suspension is concerned, the respondents have placed reliance upon Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules read with Clause 23(1) of TANUVAS Regulations read with Serial No.4 (d) (1)(ii) of Appendix-IX of the Tamil Nadu Veterinary and Animal Sciences University Regulations.

6.The learned Standing Counsel appearing on behalf of the respondent University further submitted that during the pendency of this writ petition, charge memo was also issued against the petitioner by the 1st respondent dated 23.11.2023 and an Enquiry Officer was appointed and the enquiry was conducted and enquiry report has also been submitted to the 1st respondent.



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7. Heard Mr.N.Manokaran, learned counsel appearing on behalf of the petitioner and Mr.S.Vijayakumar, learned Standing Counsel appearing on behalf of the respondents.

8. The short issue that arises for consideration in the present case is as to whether adding the name of the petitioner in the FIR registered in Crime No.5 of 2023 for offence under Sections 498A and 406 of IPC can automatically result in the suspension of the petitioner from service and not permitting the petitioner to retire from service on the ground of disciplinary proceedings contemplated against the petitioner for the alleged violation of Code of Conduct.

9. The suspension order has been passed against the 2nd respondent on 21.04.2023 by relying upon Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules read with Clause 23(1) of TANUVAS Regulations read with Serial No.4 (d) (1)(ii) of Appendix-IX of the Tamil Nadu Veterinary and Animal Sciences University Regulations.



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10. The ground on which the petitioner was placed under suspension is that an FIR came to be registered against the petitioner in Crime No.5 of 2023 for alleged offence under Sections 498A and 406 of IPC. The petitioner was added as an accused in his capacity as father-in-law.

11. It is also brought to the notice of this Court that the investigation was completed and police report was filed in which the charge under Section 406 was dropped and ultimately, charges were framed under Section 498A of IPC and Section 4 of the Dowry Prohibition Act, 1961. The charges have been framed against the petitioner's son (A1), petitioner (father-in-law) and the wife of the petitioner (mother-in-law).

12. It is quite clear from the suspension order that the petitioner was placed under suspension in contemplation of initiating proceedings against the petitioner for minor charges. Serial No.4 (d) (1)(ii) specifically provides that such order of suspension can be passed only if it is necessary in the public interest. Hence, it is clear that an order of suspension is not automatic and such



order of suspension will be passed only if it involves a complaint for any criminal offence which is under the investigation and if such suspension is necessary in public interest.

13.By no stretch, the FIR registered for offence under Section 498A of IPC can be stated to be an offence against public interest. It is basically a matrimonial dispute between the petitioner's son and the petitioner's daughter-in-law. This Court had an occasion to deal with a similar case in W.P.(MD)No.18652 of 2019 and by an order dated 28.02.2020, it was held that the criminal case is purely based on a matrimonial dispute which can only be termed as a private interest between the parties and not a public interest as envisaged under the Rule. In view of the above, there was absolutely no necessity in this case to keep the petitioner under suspension by relying upon an FIR which was registered due to some matrimonial dispute.

14.The next issue is with regard to the order passed by the 1st respondent not permitting the petitioner to retire from service by relying upon FR 56(1)(c). According to the 1st respondent, whenever a Government servant is under



suspension against whom complaint of criminal offence is under investigation or trial, he shall not be permitted to retire from service on reaching the date of retirement and he should be retained in service until the enquiry into the charge is completed and final orders are passed.

15.The order dated 25.04.2023 passed by the 1st respondent was necessitated only due to the order of suspension passed by the 2nd respondent dated 21.04.2023.

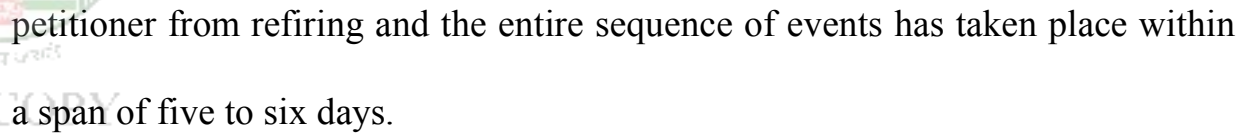
16.This Court has repeatedly deprecated the practice of passing orders at the verge of retirement by not permitting the employee to retire from service. Useful reference can be made to the order passed in W.P.(MD) No.26571 of 2022, dated 26.04.2024. This Court took into consideration the earlier orders passed by this Court and also G.O.Ms.No.144, dated 08.06.2007. This Court held that powers of the Government should not be exercised in a way prejudicial to the interest of employee whose services have been utilized for a long period of time.



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17. In the instant case, the petitioner has nearly put in 33 years of service and right through, he has achieved various milestones which includes contribution towards research and he has also been conferred with various awards and fellowships at National and International level. Under such circumstances, the respondents must be very slow before proceeding to initiate any disciplinary proceedings against the petitioner based on a matrimonial dispute which resulted in the registration of the FIR.

18. An order of suspension and not permitting the petitioner to retire from service will be warranted if really the criminal case involves any public interest. However, there was a matrimonial dispute which resulted in the registration of an FIR. It is seen from records that the daughter-in-law gave the complaint to the police on 15.04.2023 and the FIR was registered on the very same day. The police had intimated the 2nd respondent in this regard on 19.04.2023. In the meantime, the Registrar of the University had issued a letter dated 17.04.2023 and the order of suspension came to be passed on 21.04.2023. It is therefore clear that there was a well orchestrated attempt to somehow prevent the



20. There is yet another material that has to be taken note of by this Court. A charge memo came to be issued against the petitioner on 30.11.2023 based on the FIR that was registered. On going through the charge memo, it is seen that it does not even contemplate the list of witnesses who are going to be examined to substantiate the charge against the petitioner. This is apart from the fact that



charge memo has been issued on the very same set of facts for which the criminal proceedings have been initiated. Pursuant to the same, an Enquiry Officer was appointed and only the petitioner was examined. Based on the same, the enquiry report has also been submitted. This shows that the respondents want to some how victimize the petitioner for reasons best known to them.

21.The manner in which the proceedings have been initiated against the petitioner for a matrimonial dispute which is purely private in nature and which does not involve any public interest, requires the interference of this Court. The continuation of the order of suspension against the petitioner and the disciplinary proceedings against the petitioner will result in an abuse of process of law.

22.In the light of the above discussion, the impugned proceedings of the 2nd respondent dated 21.04.2023 and the impugned proceedings of the 1st respondent dated 25.04.2023 and also the charge memo issued by the 1st respondent dated 30.04.2023 are hereby quashed. There shall be a direction to the respondents to pass appropriate orders permitting the petitioner to retire from service effective from 30.04.2023. All the attendant benefits shall also be settled



to the petitioner. This process shall be completed, within a period of eight weeks from the date of receipt of copy of this order.

23. In the result, this writ petition stands allowed with the above directions.

No Costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

Internet : Yes / No

Index : Yes / No

Speaking Order / Non Speaking Order

Neutral Citation : Yes / No

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To
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Madhavaram Milk Colony,
Chennai – 600 051.
- 2.The Dean,
Madras Veterinary College,
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N. ANAND VENKATESH, J.

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