



W.P.(MD)No.8220 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.8220 of 2024
and
WMP(MD)Nos.7422 & 7425 of 2024

Mahalakshmi

.. Petitioner

Vs.

1.The Inspector General of Registration,
Chennai.

2.The Deputy Inspector General of Registration,
Ramanathapuram.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the impugned suspension order in No.593/A1/2024 dated 25.03.2024 passed by the 2nd respondent and quash the same as illegal.



W.P.(MD)No.8220 of 2024

WEB COPY

For Petitioner : Mr.A.S.Abdul Kalam Azad
for M/s.Spicy Law Firm

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

The petitioner has challenged the impugned order passed by the 2nd respondent in No.593/A1/2024 dated 25.03.2024.

2. Heard Mr.A.S.Abdul Kalam Azad, learned counsel appearing for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General assisted by Ms.D.Farjana Ghoushia learned counsel appearing for the respondents.

3. Mr.A.S.Abdul Kalam Azad, learned counsel for the



W.P.(MD)No.8220 of 2024

WEB COPY

petitioner submitted that the petitioner who had attained the age of superannuation on 31.03.2024 was placed under suspension few days before her retirement ie., on 25.03.2024.

4. Mr.A.S.Abdul Kalam Azad, learned counsel for the petitioner submitted that the Government has issued guidelines in G.O(Ms)No.144, Personnel and Administrative Reforms (N), Department dated 08.06.2007, not to issue suspension orders to the employees in the last minute i.e., on the date of their retirement and a decision, either to allow the Government servant to retire from service or suspend him from service, should be taken well in advance (i.e) three months prior to the date of retirement on superannuation. It is further contemplated that in the event of any irregularity or an offence committed by the Government servant comes to notice within a period of three months prior to the date or retirement, the disciplinary authority shall process the case on war-footing manner and take a decision either to permit the Government



W.P.(MD)No.8220 of 2024

servant to retire from service without prejudice to the disciplinary case pending against him or to place him under suspension, based on gravity of the irregularities committed by him.

5. For the sake of convenience, the guidelines issued by the Government in **G.O.(Ms)No.144 Personnel and Administrative Reforms (N), Department dated 08.06.2007**, are extracted hereunder :

“5. The Government direct that the following guidelines be followed to avoid suspension orders on the date of retirement of the Government servants in super session of orders issued in the reference second read above.

(i) The Disciplinary authority should not resort to last minute suspension of the Government servants (i.e) on the date of their retirement. A decision either to allow Government servant to retire from service or suspend him from service should be taken well in advance (i.e) three months prior to the date of retirement on superannuation and orders issued in the matter and such a decision should not be taken on the date of retirement, if final orders could not be issued in a pending disciplinary case against a Government servant retiring from service due to administrative grounds.



W.P.(MD)No.8220 of 2024

WEB COPY

(ii) If an irregularity or an offence committed by the Government servant comes to notice within a period of three months prior to the date of retirement, the disciplinary authority shall process the case on war-footing and take a decision either to permit the Government servant to retire from service without prejudice to the disciplinary case pending against him or to place him under suspension, based on gravity of the irregularities committed by him.

(iii) In respect of Directorate of Vigilance and Anti-Corruption and Tribunal for Disciplinary Proceedings cases, the disciplinary authorities should strictly adhere to the time limit prescribed by the Government. It is noticed that Directorate of Vigilance and Anti Corruption and Tribunal for disciplinary Proceedings cases are dragged on for a long time without adhering to the time limit prescribed by the Government in Letter first read above. In such cases, 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 final orders issued 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 to place him under suspension well in advance (i.e) prior to the date of retirement of the Government servants and not on the date of retirement.

(iv) Any failure on the part of the disciplinary authority to issue final orders three months before the date of retirement of a delinquent officer will be viewed seriously and it will entail severe action to be



W.P.(MD)No.8220 of 2024

WEB COPY

initiated against the officials responsible for dragging on the case to the date of retirement of Government Servant concerned.

(v) Where the delinquency committed by a Government servant is very grave which warrants imposition of major penalty such as dismissal or removal from service and if it is not possible 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. However, where a Government servant is already under suspension, orders retaining the services of Government servant beyond the date of superannuation under Fundamental Rule 56 (1) (c) have to be issued on the date of retirement only .

(iv) In cases where charges have been framed and the disciplinary authority is of the view that a pension cut or withholding of pension under the Tamil Nadu Pension Rules, 1978 would suffice for the delinquency committed, the disciplinary authority may allow the Government servant to retire from service without prejudice to the departmental proceedings.

(vii) If the disciplinary authority comes to know of the commission of a delinquency which warrants imposition of major penalty such as dismissal or removal from service, within three months prior to the date or retirement of the



W.P.(MD)No.8220 of 2024

Government Servant and charges could not be framed before the date of retirement of the Government servant, then also 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)(a) (c). In such cases also, the disciplinary authorities may ensure that the suspension orders are not issued on the date of retirement of the Government servant.

(viii) The above instructions shall not be made applicable to cases of Directorate of Vigilance and Anti-Corruption enquiry and criminal cases.”

6. Mr.Veerakathiravan, learned Additional Advocate General submitted that the irregularities and loss caused by the petitioner to the Department came to light only on 18.03.2024 and so the order has been passed immediately. It is further submitted that avoiding suspension on the date of retirement is not applicable to serious offences.

7. In the instant case, no criminal case has been registered against the petitioner. So, the petitioner is well within the bound of G.O(Ms)No.144, Personnel and Administrative Reforms



W.P.(MD)No.8220 of 2024

WEB CO (N), Department dated 08.06.2007. However, it is submitted that the irregularities came to the knowledge of the respondents just a few weeks before the retirement of the petitioner. In fact the petitioner was issued with a charge memo on 18.03.2024.

8. On perusal of the charge memo, it is seen that the charges pertain to certain alleged lapses during the time the petitioner was working as Sub Registrar in the year 2016-2017. The learned counsel for the petitioner submitted that every year audit inspection has been taken place and if there are some irregularities as alleged by the respondent, that should have been reported and action could have been taken immediately.

9. Time and again, it is held that an employer should not resort to the practice of suspending an employee on the date of his retirement or at the verge of his retirement and initiate disciplinary proceedings after a lapse of considerable time.



W.P.(MD)No.8220 of 2024

WEB COPY

10. The Supreme Court has held in a case of ***P.V.Mahadevan Vs. Managing Director, Tamil Nadu Housing Board reported in 2005(4) CTC 403***, that initiating departmental proceedings at the time of retirement of the petitioner is prejudicial to him and such a practice should be avoided not only in the interest of the Government employee, but also in public interest. The relevant part of the above judgment is extracted below:

“11. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a Government employee should, therefore, be avoided not only in the interests of the Government employee but in public interest and also in the interests of inspiring confidence in the minds of the Government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplined proceedings. As a matter of fact, the mental agony and sufferings



W.P.(MD)No.8220 of 2024

WEB COPY

of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.”

11. But Mr.Veerakathiravan, learned Additional Advocate General submitted that there was a delay in getting the audit report and that causes delay in issuing the charge memo. If the auditor makes a delay in submitting the report and to furnish the report just a few days before the retirement of the Government employee, it affects the spirit of the guidelines issued in G.O(Ms)No.144, Personnel and Administrative Reforms (N), Department dated 08.06.2007. Even though the learned Additional Advocate General vehemently argued that action can be initiated when the irregularities come to the notice of the disciplinary authority through proper channel, such action cannot dilute the spirit of the G.O(Ms)No.144, Personnel and Administrative Reforms (N), Department dated 08.06.2007 wherein the words 'war-



W.P.(MD)No.8220 of 2024

WEB COM
footing manner' have been used in paragraph No.5. If the actions have taken in lackadaisical manner stating that the papers have passed through several tables or channels that delay cannot be held against the interest of the employee.

12. No doubt the petitioner is answerable to the charges raised against her. However, placing the petitioner under suspension when there is no allegations of corruption or any pending criminal cases, the order of suspension is liable to be revoked. However, the petitioner has to submit her explanation/defence to the charge memo dated 18.03.2024 before the disciplinary authority. The respondents shall complete the disciplinary proceedings by following the due procedure within a period of three months from the date of receipt of a copy of this order.



W.P.(MD)No.8220 of 2024

WEB COPY 13. With the above observations and directions, this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petitions are closed.

18.04.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

PJL

To

1.The Inspector General of Registration,
Chennai.

2.The Deputy Inspector General of Registration,
Ramanathapuram.



WEB COPY



W.P.(MD)No.8220 of 2024



WEB COPY



W.P.(MD)No.8220 of 2024

R.N.MANJULA, J.

PJL

W.P.(MD)No.8220 of 2024

18.04.2024