



W.P.(MD)No.10896 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.(MD)No.10896 of 2024

and

W.M.P.(MD).Nos.9706 & 9707 of 2024

M.Karunanithi

... Petitioner

Vs.

1.The Inspector General of Registration,
Office of Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram, Chennai – 28.

2.The Deputy Inspector General of Registration,
Tanjore,
Tanjore District.

3.The District Registrar,
District Registrar Office,
Pudukkottai,
Pudukkottai District.

4.The District Registrar (Admin),
District Registrar Office,
Pattukottai,
Tanjore District.

5.The Deputy Superintendent of Police,
District Crime Branch,
Tanjore,
Tanjore District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order Proc.No.17290/V2/2018, dated 22.04.2024 passed by the first respondent and quash the same as illegal.

For Petitioner : Mr.V.R.Shanmuganathan
Senior Counsel for
Mr.N.Kamesh

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.VR.Shanmuganathan, learned Senior Counsel for Mr.N.Kamesh, learned counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.

3. The petitioner was placed under suspension on 22.04.2024 in view of the pending case in FIR No.21 of 2015 and the petitioner is not cited as accused in the FIR.



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4. Mr.VR.Shanmuganthan, learned Senior Counsel appearing for the petitioner would submit that the petitioner has been placed under suspension on the eve of his retirement.

5. Mr.R.Ragavendran, learned Government Advocate appearing for the respondents would submit that the petitioner is about to reach the age of superannuation on 30.04.2024.

6. The impugned suspension order has been issued on 22.04.2024 and the records would show that the FIR was registered in the year 2015. The allegation against the petitioner is that one partition deed was registered in the year 2012 and subsequently, that was cancelled in the year 2018. The earlier partition deed was registered despite there were some impersonation. As stated already, the petitioner is not an accused in the above FIR and the same is pending from the year 2015 for investigation. The respondents despite knowing the pending FIR from the year 2015, had not chosen to initiate any action until the petitioner is about to retire. It is worthwhile to refer to the instructions / guidelines issued by the Government in the Government Order vide G.O. (Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021 and the following guidelines / instructions have been issued to avoid the



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suspension order on the date of retirement of the Government Order:

G.O.(Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021:

“7. Now, based on the announcement made by the Hon'ble Chief Minister on the floor of the Assembly on 07.09.2021 under Rule 110 of the Tamil Nadu Legislative Assenokt Rules, the Government reiterate the instructions issued in Government Order fourth read above and also direct that the following guidelines be strictly followed to avoid suspension orders on the date of retirement of the Government servants:-

(i) Before initiating disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the competent authorities should personally assess whether the charges / allegations against the Government servants warrant imposition of major penalties such as dismissal or removal from service. Because, proper application of rule reduces unnecessary delay in processing the disciplinary cases.

(ii) The disciplinary authority should follow the time frame stipulated in the Government letter second read above, which ensures, issue of final



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orders without inordinate delay. The time limit given in the above Government letter is in general. Considering the date of retirement of the Government servant against whom disciplinary proceeding is pending, the concerned disciplinary authority should prescribe suitable calendar of activities subject to principle of natural justice in terms of providing opportunities to defend for each case in line with the general instructions. The reason for non adherence should be recorded in writing by the disciplinary authority and same should be monitored by the Inspection Cell concerned.

(iii) To avoid suspension on the date of their retirement, decision should be taken well in advance (i.e.) three months prior to the date of retirement on superannuation, if final orders could not be issued in a pending disciplinary case against a Government Servant retiring from service due to administrative grounds

(iv) 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 manner and take a decision



either to permit the Government servant to retire from service so as to continue the disciplinary case pending against him under the Tamil Nadu Pension Rules, 1978 or to place him under suspension based on gravity of the irregularities committed by him.

(v) 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 servants to retire from service so as to continue the same as deemed departmental proceedings.

(vi) 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 initiated against the officials responsible for dragging on the case to the date of retirement of Government servant concerned.

(vii) Where the delinquency committed by a Government servant is very grave which warrant imposition of major penalty such as dismissal or



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removal from service and if it is not possible to frame charges to initiate action before retirement or 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.

(viii) In respect of Directorate of Vigilance and Anti-Corruption and Tribunal for Disciplinary Proceedings cases, if any delay on their part, 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 issue of final orders 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 well in advance and not to place him under suspension on the date of retirement.



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

7. On perusal of the above Government Order, it is seen that the authorities concerned are bound to take a decision well in advance viz., three months prior to the date of retirement of an employee even if there is any pending disciplinary action. In case, if any irregularity or offence is seen to have been committed by the Government servants and if it comes to notice within a period of three months prior to the date of the retirement, the disciplinary authorities have to process the same and take a decision.

8. In the instant case on hand, the FIR is pending from the year 2015 and so far, no action has been taken. Since the respondents have not taken any action, the order of suspension which has been issued just two weeks before the date of superannuation, is impermissible and hit by the guidelines / instructions issued by the Government in G.O.(Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021.



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9. Accordingly, the Writ Petition stands **allowed** and the impugned order passed by the first respondent in Proc.No.17290/V2/2018, dated 22.04.2024, is quashed in the light of the guidelines / instructions issued by the Government in G.O.(Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021 and there shall be a direction to the first respondent herein, to forthwith pass appropriate orders, permitting the petitioner to retire from service, together with all the monetary, retirement and pensionary benefits. Such orders shall be passed as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

30.04.2024

Index:yes/no
Internet:yes/no
Ncc : yes/no
TSG
To

- 1.The Inspector General of Registration,
Office of Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai – 28.
- 2.The Deputy Inspector General of Registration,
Tanjore,
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R.N.MANJULA, J.

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