



W.P.(MD)No.11975 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.11975 of 2024
and
W.M.P(MD)No.10659 of 2024

A.Manikanda Narayanan

... Petitioner

vs.

1.The Chairman cum Managing Director,
TANGEDCO Department,
N.P.K.R.R. Maligai, Annasalai,
Chennai – 600 002.

2.The Administrative Supervisor,
Chief Engineer / Distribution,
Trichy Officer, TANGEDCO,
Thennur, Tiruchirappalli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 29.04.2024 in Memo No.4400/526/Adm.A/A.1/2024 passed by the second respondent and impugned consequential order, dated 30.04.2024 in Memo No.4400/526/Adm.A/A.1/2024-1 passed by the second respondent and to quash the same and consequentially, direct the respondents to allow the petitioner to retire and disburse the terminal benefits payable to the petitioner.



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For Petitioner :Mr.S.Sylverster Raj
For Respondents :Mr.B.Ramanathan

ORDER

The petitioner has filed this writ petition challenging the order dated 29.04.2024 in Memo No.4400/526/Adm.A/A.1/2024 passed by the second respondent and impugned consequential order, dated 30.04.2024 in Memo No.4400/526/Adm.A/A.1/2024-1 passed by the second respondent and consequentially, direct the respondents to allow the petitioner to retire and disburse the terminal benefits payable to the petitioner.

2. The petitioner who reached the age of superannuation on 30.04.2024 has been placed under suspension just one day prior to his retirement on 29.04.2024. In the impugned order of suspension, no reason has been stated as to why the petitioner was kept under suspension. In fact, the petitioner was kept under suspension from 08.09.2017 in view of the criminal complaint given by one third party and on which, an F.I.R has been registered in Crime No.1087 of 2017 on the file of Fort Police Station, Trichirapalli, for the offence under Sections 288, 336, 304 of I.P.C. But however, the said suspension order



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was revoked on 12.10.2017. Having failed to take action for many years, all of a sudden, now the petitioner has been placed under suspension just one day prior to the date of his retirement.

3. Time and again it has been held by the various judgments of the Hon'ble Supreme Court as well as this Court that initiating disciplinary proceedings at the verge of retirement of the employee should be avoided as it would prejudice the employee and it does not serve any public interest. The Government has also issued guidelines that the practice of suspending the employees on the date of retirement should be avoided.

4. In G.O(Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021, the Government has issued orders to avoid the last minute suspension and guidelines have been issued that the disciplinary action if any initiated against an employee should be completed well before the retirement if the alleged wrong or lapse came to the knowledge of the disciplinary authority before three months from the date of retirement.



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5. In the instant case, the petitioner has been placed under suspension in the year 2017 based on the F.I.R pending against him and thereafter, the said suspension was revoked and subsequently, no disciplinary action had been initiated against him.

6. There is no allegation against the petitioner that he involved in any corruption or corrupt practice. The allegation in the complaint on which the F.I.R has been registered against the petitioner also do not relate to official duties and it was for some other reason. In fact, when the building in the petitioner's property was demolished, the building adjacent to the petitioner's property got collapsed and three persons died. Hence, the petitioner has been implicated as an accused in the above case and so far, no charge sheet has been filed against him. Having placed the petitioner under suspension for the very same allegations and revoking it later in the year 2017, without taking any action till his attaining the age of superannuation, the second respondent had issued the suspension order just one day prior to the retirement of the petitioner, which is clearly in violation of the Government Orders in G.O(Ms).No.111 Human Resources Management (N) Department, dated 11.10.2021.



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7. In this regard, it is relevant to refer to the order of this Court in ***W.P(MD)No.26571 of 2022, vide order dated 26.04.2024(K.Saravan v. The Joint Director of School Education(Personnel), Chennai and another***, wherein after referring the judgment of the Hon'ble Supreme Court in ***P.V.Mahadevan vs. Managing Director, Tamil Nadu Housing Board*** reported in ***2005(4) CTC 403***, this Court has held that placing an employee under suspension on the date of his retirement is violative of the orders of the Government.

8. In view of the settled position of law that an employee shall not be suspended at the verge of his retirement and that, the disciplinary proceedings if any to be initiated and completed on a war-footing basis, if an irregularity or lapse came to the notice of the Department within three months prior to retirement, the impugned orders are liable to be set aside.

9. In the result, this writ petition is allowed and the impugned order passed by the second respondent order dated 29.04.2024 in Memo No.4400/526/Adm.A/A.1/2024 and the consequential order, dated



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30.04.2024 in MemNo.4400/526/Adm.A/A.1/2024-1, are set aside. The second respondent is directed to permit the petitioner to retire from service with effect from the date of superannuation with all attendant benefits and release the terminal benefits within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

12.06.2024

NCC: Yes/No
Index : Yes/No
PM

To

1.The Chairman cum Managing Director,
TANGEDCO Department,
N.P.K.R.R. Maligai, Annasalai,
Chennai – 600 002.

2.The Administrative Supervisor,
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PM

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