



WP(MD). No.13448 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 24/06/2024

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The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.13448 of 2024
and WMP(MD) Nos.11860 & 11861 of 2024**

P.Lavakumar

... Petitioner

Vs

1. The Director General of Police,
Directorate of Police,
Chennai..

2. The Superintendent of Police,
District Police Station,
Dindigul District..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent pertaining to the impugned suspension order in D.O.No.399/2024 dated 29.04.2024 and the impugned order not allowed to retire on superannuation in D.O.No. 400/2024 dated 30.04.2024 and quash the same and consequently direct the respondents to release the petitioners retirement benefits within a



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stipulated time that may be fixed by this Court.

For Petitioner : Mr.SC.Herold Singh,
For Respondent : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The writ petition has been filed challenging the impugned suspension order of the 2nd respondent dated 29.04.2024 and the impugned order not allowing the petitioner to retire on superannuation dated 30.04.2024 and to direct the respondents to release the petitioner's retirement benefits.

2. Heard Mr.SC.Herold Singh, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader for the respondent.

3. By consent, the writ petition is taken up for disposal.

4. The petitioner, who was working in the respondent department, is about to retire on 30.04.2024. While so, before he retire, he was placed under suspension by an order dated 29.04.2024, just one day before his retirement.

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5. The learned counsel for the petitioner submitted that the petitioner has been kept under suspension in violation of G.O.Ms.No.144 dated 08.06.2007. He further submitted that the reason cited by the respondent is that there are two criminal cases pending against him and one of such case is of the year 2012, registered in Crime No.123/2012 on the complaint of the brother of the petitioner, wherein investigation has been completed and charge sheet has been filed and is pending before the Judicial Magistrate, Dindigul in PRC No.52/2020. Another case is of the year 2023, wherein the case has been registered in Crime No. 271/2023 for offences under Sections 420 and 506(II) IPC. Since the criminal cases have got no relevancy to the discharge of official duty of the petitioner, the suspension order is liable to be interfered with.

6. 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 lapse of considerable time.



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7. 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



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proceedings. As a matter of fact, the mental agony and sufferings 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.”

8. The Government itself 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.

9. 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



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(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.

(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 AntiCorruption and Tribunal for disciplinary



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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 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



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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 of retirement of the Government Servant and charges could not be framed before the date of retirement of the Government servant, then also it is



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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.”

10. In the case on hand, the petitioner was placed under suspension completely in contradiction with the above guidelines and the petitioner was issued with the suspension order exactly before one day of his superannuation.

11. When the suspension order itself is illegal, it is needless to state that the consequential order not allowing the petitioner to retire is also illegal.



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12. For all these reasons, the writ petition is allowed and impugned orders of the 2nd respondent in D.O.No.399/2024 dated 29.04.2024 and D.O.No.400/2024 dated 30.04.2024 are set aside. No costs. Consequently connected Miscellaneous Petitions are closed.

24.06.2024

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TO

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Directorate of Police,
Chennai..

2. The Superintendent of Police,
District Police Station,
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R.N.MANJULA,J

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**ORDER
IN
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