



W.P.(MD)No.15069 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15069 of 2024

and

W.M.P.(MD)No.13209 of 2024

S.Muthuvijayakumar

... Petitioner

Vs.

The District Collector,
Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.e-1859386/2024/Pa.A.1 dated 08.04.2024 and the impugned order in Roc.No.A1/1859386/2024 dated 29.04.2024 and the consequential impugned order in Roc.No.A1/1844193/2024 dated 30.04.2024 on the file of the respondent and quash the same as illegal.

For Petitioner : Mr.T.Aswin Raja Simman
For Respondent : Mr.M.Siddharthan
Additional Government Pleader



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ORDER

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By consent of both sides, the Writ Petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.T.Aswin Raja Simman, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

3.The petitioner has filed this writ petition challenging the charge memo dated 08.04.2024 and the order dated 29.04.2024 suspending and not permitting the petitioner to retire from service.

4.The petitioner was working as a Tahsildar. When the petitioner was about to retire from service on 30.04.2024, he was issued with a charge memo dated 08.04.2024 with regard to the disciplinary proceedings initiated against him and after enquiry he was suspended from service on 29.04.2024 and he was not allowed to retire from service.

5.The charge against the petitioner is that the petitioner had violated the guidelines issued by the Government in G.O.Ms.No.248, Revenue



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Department dated 28.07.2009 and had given assignment in respect of a property, which has the value beyond his jurisdiction and also nearby to the house sites. The another charge against the petitioner is that he has given the assignment to an ex-service man, who is a pensioner and also to a male person, when the Rules stipulates that the assignment should be given only to the female members of the family.

6.The specific contention of the learned counsel for the petitioner is that such an assignment has not been given by the petitioner. The petitioner has passed an order on 28.07.2021 directing one of the legal heirs of the ex-service man to pay a sum of Rs.79,800/-, being the value of the property, after receiving the recommendation and proposal, within a period of 90 days, failing which the request for assignment will be cancelled and the same cannot be construed as grant of assignment. He further contended that the impugned order has been passed at the verge of his retirement.

7.The learned counsel for the petitioner submitted that such orders of the Tahsildar should be considered as quasi judicial proceedings, which has got an appeal avenue and the petitioner ought not to have subjected to disciplinary action. If the petitioner patently violates the existing Rules and



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proceeds to consider the ineligible applications and pass orders, then he cannot claim that his action was only quasi judicial proceedings. The fact remains that these orders pertain to the period 2020-21, for which no action can be initiated when the petitioner reaches his retirement in the year 2024. It is further stated that there are no serious allegations like misappropriation or corruption against the petitioner.

8.The learned Additional Government Pleader submitted that the negligent act of the petitioner came to light only when the successor of the petitioner has referred the matter to the District Revenue Officer. Thereafter, the District Revenue Officer had cancelled the order of the petitioner dated 28.01.2021.

9.Perusal of the proceedings dated 28.07.2021, it is clear that the application seeking assignment itself has been made by a male person and hence, the petitioner could have returned the same at the threshold. Instead, he had demanded the applicant to pay the value of the property. Insofar as the charge relating to the violation of the Rules in force is concerned, the petitioner had fixed less value than the actual value of the assignment.



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10.However, the above allegations relate back to the year 2020-21.

It is also learnt from the record that the impugned assignment has also been cancelled by the District Revenue Officer.

11.The submission of the learned Additional Government Pleader for the respondent is that the negligence on the part of the petitioner came to light only after the successor holds the office of the petitioner and hence, the action against the petitioner had been initiated belatedly. Even in that case, the disciplinary action against the petitioner could have been initiated well in advance, instead of expecting orders from the District Revenue Officer relating to the issue of assignment and then proceed to suspend the petitioner at the verge of this retirement.

12.Time and again, this Court has 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.

13. In fact, in the guidelines of the Government in G.O(Ms).No.

144, Personnel and Administrative Reforms(N) Department, dated 08.06.2007,



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it is clearly mentioned that if an irregularity or an offence committed by a 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 basis 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 the gravity of the irregularities committed by him.

14. Even in the guidelines issued for initiating disciplinary proceedings in G.O(Ms).No.144, Personnel and Administrative Reforms(N) Department, dated 08.06.2007, it is stated that if the charges are not so grave and do not warrant major punishment, the Government may allow the employee to retire from service without prejudice to pending case against him.

15. On the same reasons, this Court has held 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, that the delayed action initiated by the Government in complete contradiction to its own Government Orders would vitiate all the proceedings. In view of the above stated reasons, I feel that the impugned orders are liable to be set aside.



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16.In the result, this writ petition is allowed and the impugned orders passed by the respondent in Na.Ka.No.e-1859386/2024/Pa.A.1 dated 08.04.2024, in Roc.No.A1/1859386/2024 dated 29.04.2024 and the consequential impugned order in Roc.No.A1/1844193/2024 dated 30.04.2024, are set aside. The respondent is directed to permit the petitioner to retire from service with effect from 30.04.2024 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.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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To

The District Collector,
Madurai District.



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R.N.MANJULA, J.

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