BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) Nos.15538 & 15964 to 15966 of 2023
and
W.P.(MD) Nos.13066, 13067, 13363, 13364, 13379, 13381, 13365, 13368 and 20603 of 2023

S.Karuppiya ... Petitioner in all petitions

Vs.

1.The Additional Chief Secretary,
Commission of Revenue Administration,
St.George Fort, Chennai.

2.The District Collector,
Office of the District Collector,
Collectorate, Madurai District.

3.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate Complex,
Madurai District. ... Respondents in all petitions

PRAYER in W.P.(MD)No.15538 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of

Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in ROC No.A1/18640/2023 dated 30.05.2023 and impugned order of the 2nd respondent in ROC No.A1/ 18640/ 2023 dated 31.05.2023 and quash the same and allow the petitioner to retire from the service with all monetary benefits.

COMMON PRAYER in W.P.(MD)No.15964 of 2023: Writ Petitions 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 of the 2nd respondent in Na.Ka.No.PA1/47889/2021, Na.Ka.No.PA1/35509/2020 and Na.Ka.No.PA1/820257/2020 dated 30.05.2023 and quash the same.

Appearance in all petitions:-

For Petitioners : Mr.K.R.Laxman

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

COMMON ORDER

The petitioner has filed the writ petitions challenging the order of suspension passed by the second respondent dated 30.05.2023 and the order dated 31.05.2023 passed by the second respondent for not allowing the petitioner to retire and the consequential charge memos dated 30.05.2023.

2. The petitioner was working as Thasildar and he had attained the age of superannuation on 31.05.2023. Prior to the retirement, he was kept under suspension and he was also served with three charge memos on the allegation that (i) the petitioner has given no objection certificate in respect of patta No.202 violating the rules, (ii) the petitioner had not taken action for cancelling patta on the failure of pattathar to construct a house within six months and he has given the same house site patta to two different persons and (iii) the petitioner had given free house site patta to 21 persons without ascertaining that the patta lands are reserved for public purpose.

3. The allegation in the charge memo which was put to challenge in WP(MD)No.15965 of 2023 is concerned, it would allege that the petitioner has issued patta to an individual in the year 2016 and on the failure of the individual to construct the house, he ought to have cancelled the patta, but however he has given No Objection Certificate

on 13.02.2020 for getting bank loan for the purpose of constructing the house. Even though the allegation relates back to the year 2016 and 2020, no action has been taken against the petitioner sofar. Insofar as other allegation in respect of assigning the same patta number for two persons is concerned, it does not have the date and other detail as to how the same patta was issued to two persons.

4. The allegation in the charge memo which is challenged in WP(MD)No.15966 of 2023 would show that it relates the issues of the year 2021. The petitioner was said to have been holding the post of Special Tahsildar ((LA), Airport Expansion). An expansion project could not have been done in a day or a week. So, the respondents could have received the report from the petitioner in a periodical manner chart of the acquisition details for the expansion of airport. In such case, if the petitioner is found to have violated any rules, action could have been taken against him without waiting till his date of retirement. The other charges are very vague and the way in which the charges have been framed does not convey proper meaning except it referred to patta No. 202 granted in the year 1998.

5. Despite three charge memos were given against the petitioner, none of the charges pertain to the allegation of corruption. The petitioner has put in unblemished service of 34 years and only on the date of the retirement, the respondents have raised allegations without any feasibility for the petitioner to defend himself effectively. The inordinate delay in initiating the proceedings of this nature dilutes the fairness.

6. Infact, the Government is issuing various government orders, wherein certain guidelines have been issued as to how the authorities concerned should avoid last minute suspension on the date of retirement. The recent guidelines held in G.O.Ms.No.111, Human Resources Management (N) Department, dated 11.10.2021 have been issued stating that the government servants should not be placed under suspension on the last date of his service.

7. It is also stated in the aforesaid government order that an employee has committed irregularity or an offence and when it comes to

the notice of the respondents, the disciplinary authority shall take a decision either permitting him to retire without prejudice to the disciplinary cases pending against him or placing him under suspension depending upon the gravity of the irregularities, within a period of three months prior to the date of retirement. Infact even in cases registered by Vigilance and Anti Corruption, the guidelines would mandate that the case should be expedited and final orders be passed within a prescribed time limit.

8. In the case on hand, despite there is every opportunity to know about the alleged violations, the authorities concerned have not taken any action until the petitioner retires due to his superannuation. So, it is not a case, where the respondents could say that alleged violation came to the knowledge only on the date of the petitioner's superannuation. The guidelines are specifically framed to avoid last minute suspension, but that is being repeated.

9. In the instant case, the petitioner has been given with the charge memo, one after one on the same day. However, all these charge

memos have been given to him only on the date of his superannuation ie., on 31.05.2023, by entering the previous date as 30.05.2023.

10. Having put an unblemished service of 34 years, it is unfair on the part of the respondents to withhold the retirement of the petitioner by making the aforesaid allegations in the last minute. Despite the alleged misconduct relates to the year 2016 – 2021, no action has been taken till the date of retirement.

11. Similarly placed person has filed a writ petition in WP(MD)No.26571 of 2022, wherein this Court has made the following observations:-

> *“13. 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 on the date of his superannuation and the charge memo has been given to him subsequently.*
>
> *14. When the suspension order itself is illegal, it is needless to state that the consequential charge memo at this distant point of time i.e., nearly after*

25 years of time, is also thoroughly illogical.

15. The delayed action initiated by the Government in complete contradiction to its own Government orders would vitiate all the proceedings including the impugned order of suspension dated 31.10.2022 and the charge memo, dated 10.11.2022 issued by the first respondent.

16. In this regard, it is appropriate to cite the judgment of the Division Bench of this Court held in Joint Director of School Education and others Vs. C.Lesley Jayaseelan, (W.A(MD)No.116 of 2010, dated 23.2.2011) wherein, it is held as under:

> *"13.Therefore, we are of the opinion that the termination of service after a lapse of 22 years, would certainly affect the livelihood of his entire family at this length of time. Moreover, as observed by the learned single Judge, the appointment given to the respondent is not against any statutory regulations and moreover, the removal is not based on any misconduct. Therefore, we are of the considered view that the respondent, having been allowed to continue for over 22 years in Government service, will not be removed from service on the ground that he got employment on furnishing false information. Therefore, we do not find any infirmity in the order passed by the learned single Judge and under such circumstances, the writ appeal is liable to be dismissed. Accordingly, the writ appeal fails and is*

dismissed. No costs. Consequently, connected M.P.is closed."

17. After having allowed the petitioner to complete the service, now the respondent placed the petitioner under suspension and issued the charge memo stating that he has suppressed the material facts in securing the employment. Such kind of action itself is a mockery and that would not only cause inconvenience to the Government but also discourage the morale of the Government employees who rendered their services, till the date of attaining the age of superannuation."

12. Since the petitioner is also a similarly placed person, all the charge memos dated 30.05.2023 and the impugned order dated 30.05.2023 and 31.05.2023 issued against the petitioner without following the guidelines such as keeping the petitioner under suspension on the last date of his retirement are liable to set aside.

13. In that view of the matter, all the charge memos dated 30.05.2023 and the impugned orders dated 30.05.2023 and 31.05.2023 are set aside and the writ petitions are allowed accordingly. The

respondents are directed to allow the petitioner to retire and disburse the terminal benefits as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
sm

To:-

1.The Additional Chief Secretary,
Commission of Revenue Administration,
St.George Fort, Chennai.

2.The District Collector,
Office of the District Collector,
Collectorate,
Madurai District.

3.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate Complex,
Madurai District.

R.N.MANJULA, J.

sm

Order made in
W.P.(MD)Nos.15538 & 15964 to 15966 of 2023

26.07.2024