



W.P.(MD)No.16692 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16692 of 2024 &

W.M.P.(MD)No.14445 of 2024

C.Muthukrishnanm

... Petitioner

vs.

1.The Director of Elementary Education,
DPI Complex,
Chennai - 600 006.

2.The Chief Educational Officer,
Madurai.

3.The District Educational Officer (Elementary)
Ponneri, Thiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the orders passed by the first respondent in R.C.No. 24014/I3/2010 dated 05.04.2024 and the consequential order passed by the first respondent in R.C.No.024014/I3/2010 dated 26.04.2024 and quash the same and direct the respondents to allow the petitioner to retire from service and grant pension, DCRG, leave salary, GPF amount and all other retirement benefits with consequential attended benefits within a stipulated time.



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For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.V.Panneer Selvam, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this writ petition to quash the impugned order of the first respondent in R.C.No.24014/I3/2010 dated 05.04.2024 and the consequential order of the first respondent in R.C.No. 024014/I3/2010 dated 26.04.2024 and direct the respondents to allow him to retire from service and grant pension, DCRG, leave salary, GPF amount and all other retirement benefits with consequential attendant benefits within a stipulated time.

3. The petitioner, who has been working as an Assistant Elementary Educational Officer has been placed under suspension on 02.08.2010 in view of the pending criminal proceedings. The criminal



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case has ended in acquittal in view of the Judgment made by the Special Court for Trial of Prevention of Corruption Act Cases, Madurai in Special Case No.16 of 2012 on 27.02.2020. However, after 15 months from the disposal of the criminal case, a charge memo has been issued on 03.05.2021 on the same set of allegations. Thereafter, challenging the suspension order, the petitioner has filed a writ petition in W.P.(MD)No. 16271 of 2022 and this Court vide order dated 20.12.2023 allowed the writ petition. In pursuance thereof, the suspension order was revoked and the petitioner was reinstated and posted as Block Development Officer, Minjur. The petitioner has also challenged the charge memo by filing a writ petition in W.P.(MD)No.19257 of 2022, wherein, the charge memo was also quashed by this Court by an order dated 23.01.2024.

4. The petitioner has attained the age of superannuation on 30.04.2024. However, just a few weeks before his retirement, he was once again placed under suspension on 05.04.2024 on the same set of allegations and he was not allowed to retire by proceedings dated 26.04.2024.



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5. Since the earlier charge memo given on the pending criminal case has been quashed in the orders passed by this Court in W.P.(MD)No. 19257 of 2022 on 23.01.2024, the petitioner cannot be issued with very same charges again. So far as the criminal case is concerned, it had already ended in acquittal and whatever appeal filed by the respondents is an appeal against acquittal and hence, the same cannot be considered as a pending criminal case.

6. It is worthwhile to refer the Judgment of the Madhya Pradesh High Court in the case of ***R.C.Dubey vs. M.P.State Electricity Board*** reported in ***2013 SCC Online MP 1004*** wherein, it is held that the criminal revision or an appeal against acquittal cannot be treated as pendency of judicial proceedings. For a better understanding, the essential part of the Judgment is extracted hereunder.

"The preferment of a criminal revision or an appeal against an acquittal cannot be regarded as a continuance of the trial and cannot be treated to be pendency of judicial proceeding as the initial presumption of innocence gets re-enforced by the orders of acquittal. The contention, therefore, put forth by the respondents that the filing of revision against the judgment dated 12.12.2000 would



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tantamount to the pendency of judicial proceeding does not reason with the provisions as they stand under law. In the considered opinion of this Court, after acquittal, which lead to an affirmation of the innocence of the accused, an appeal or revision, as the case may be, being not a continuation of trial, will not amount to a pendency of judicial proceedings."

7. Since the point in issue raised in this writ petition is as similar as that of the above said legal position, the petitioner is also to be given with a similar relief. As the charge memo given on the same allegations has already been quashed and the appeal filed against the acquittal cannot be considered as continuation of criminal proceedings, impugned order of suspension and the order not allowing the petitioner to retire are liable to be set aside.

8. In view of the above stated reasons, the writ petition is **allowed** and the impugned order of the first respondent in R.C.No. 24014/I3/2010 dated 05.04.2024 and the consequential order of the first respondent in R.C.No.024014/I3/2010 dated 26.04.2024 are set aside. The first respondent is directed to relieve the petitioner with continuity of service in respect of the period during which he was out of service in



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view of the impugned order of suspension and allow him to retire by passing appropriate orders within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

24.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

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R.N.MANJULA, J.

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