



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20433 of 2024

and

W.M.P(MD)Nos.17339 & 17340 of 2024

A.Muthaiah

... Petitioner

Vs.

1.The District Collector,
O/o.the District Collector,
Sivagangai District,
Sivagangai.

2.The Personal Assistant to District Collector (Development),
Collectorate,
Sivagangai.

3.The Block Development Officer(Village Panchayat),
Thiruppuvanam,
Sivagangai District.

4.The President,
Village Panchayat,
T.Puliyankulam,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned suspension order of the 1st respondent vide his proceedings in Na.Ka.R.2/1260/2014 dated 11.11.2020 and the consequential impugned order passed by the 4th respondent vide his proceedings in Na.Ka.P3/2385/24 dated Nil.04.2024 and quash the same as illegal and consequently direct the



respondents to permit the petitioner to retire from service w.e.f., 30.04.2024 and consequently disburse all the retirement benefits payable to the petitioner.

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For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader for R1 & R2
M/s.D.Farjana Ghousia
Special Government Pleader for R3 & R4

ORDER

The instant writ petition has been filed by a Panchayat Secretary, challenging his order of suspension dated 11.11.2020, passed by the District Collector and the consequential order passed by the President of the Panchayat, retaining the petitioner in service.

2.The petitioner is working as a Panchayat Secretary in the fourth respondent Village Panchayat. He was issued with a charge memo on 07.12.2021. Despite several orders of this Court, the enquiry was not completed in time.

3.The petitioner was placed under suspension on 11.11.2020 by orders of the District Collector. When the petitioner had challenged his suspension order, a direction was issued to conclude the disciplinary proceedings expeditiously.



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4. When the petitioner was about to retire on 30.04.2024, the fourth respondent herein has passed the impugned order on 30.04.2024 invoking Fundamental rules 56(1)(c) and extended the services of the writ petitioner and retained him in service. The present writ petition has been filed, challenging the order of suspension dated 11.11.2020 and the order dated 30.04.2024, wherein the petitioner's services were extended beyond the date of retirement.

5. According to the learned Counsel appearing for the writ petitioner, he is governed by the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2023, wherein there is no provision for extending the service beyond the date of retirement on the ground of pendency of charges. He further contended that even assuming that the fundamental rules are applicable, the Panchayat President would not be the competent authority to extend the services.

6. Per contra, the learned Special Government Pleader appearing for the fourth respondent herein had contended that the petitioner being a Government servant is governed by the Fundamental Rules and therefore, the President, being the appointing authority is entitled to invoke the Fundamental Rules 56(1) (c), in order to extend the services of the writ petitioner. He further contended



that since serious charges are pending as against the writ petitioner, his services have to be necessarily extended.

7.I have considered the submission made on either side and perused the materials available on record.

8.A perusal of the Tamil Nadu Village Panchayat Secretaries(Conditions of Service) Rules 2023, reveals that as far as the Panchayat Secretary is concerned, the Panchayat President is the appointing authority and the Block Development Officer is the disciplinary authority. A perusal of Rule 21 of the Tamil Nadu Village Panchayat Secretaries(Conditions of Service) Rules 2023 reveals that the Tamil Nadu Government Servants' Conduct Rules, 1973 and the Tamil Nadu Civil Services (Discipline and Appeal) are applicable to the Panchayat Secretaries. There is no reference, whatsoever, with regard to the applicability of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 or the Fundamental Rules of the Tamil Nadu Government.

9.In the said circumstances, the Panchayat President would not be entitled to invoke the Fundamental Rule, especially Fundamental Rule 56(1)(c) to extend the services of the petitioner beyond the date of his retirement. When there are no specific provisions for retaining an employee in service beyond the



date of superannuation, the order impugned in the writ petitioner is liable to be set aside. Since there is no power to retain the petitioner in service beyond the date of retirement, the order of suspension passed by the District Collector gets terminated on the date of retirement. Therefore, no further orders are called for, as far as the order of suspension passed by the District Collector is concerned.

10. In view of the above said deliberations, this writ petition stands allowed to the extent as stated above and the petitioner should be treated to have attained superannuation on 30.04.2024 and all other consequential benefits shall follow. No costs. Consequently, connected miscellaneous petitions are also closed.

11.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR



To
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R.VIJAYAKUMAR, J.

RJR

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