



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 09.01.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE C.KUMARAPPAN**

**W.A(MD)Nos.922 to 924 of 2016
and
C.M.P(MD)Nos.5445 to 5447 of 2016**

1.The Special Commissioner of Social Welfare,
Commissionerate of Social Welfare,
Chennai-5.

2.The Director,
Directorate of Social Welfare and Nutritious
Meal Scheme,
Chepauk, Chennai -5.

... Appellants/Respondents in all
Writ Appeals

.Vs.

S.Palanisamy

... Respondent/Petitioner in
in all Writ Appeals.

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act
praying this Court to set aside the common order of this Court made in
W.P(MD)Nos.1341,1342 and 1343 of 2009, dated 02.08.2011.



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For Appellants in all W.As'	: Mr.D.Sachikumar Addl. Govt.Pleader
For Respondent in all W.As'	: Mr.D.Christopher

COMMON JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J.

A batch of three Writ Appeals preferred by the State against the common order passed by the learned Single Judge in W.P(MD)Nos.1341,1342 and 1343 of 2009, dated 02.08.2011.

2.The short point involved in these Writ Appeals are:

The Respondent/Writ Petitioner while serving in the Department of Social Welfare and Nutrition Meal Scheme was issued with show-cause notice under Rule 17(b) of the Tamil Nadu Civil Service(Discipline and Appeal)Rules. The said show-cause notice, dated 10.7.1997 was issued along with a charge-memo. No further action was taken after issuance of charge memo. But on the eve of his retirement, he was placed under suspension on 26.4.2006 and consequently, the



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impugned order was passed not permitting the respondent to retire from service.

Being aggrieved, the following three Writ Petitions filed seeking the relief as stated below:

PRAYER IN W.P.NO.1341 of 2009:

WritPetition filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent in Na.Ka.No.54145/Vu1/96, dated10.7.1997 and quash the same as illegal and consequently direct the respondents to allow the Petitioner to retire from service on the date of superannuation, ie., on 30.04.2006 and pay all the backwages with interest at 18% per annum within the time stipulated by this Court.

PRAYER IN W.P.NO.1342 OF 2009

Writ Petition filed seeking issuance of a Writ of Certiorari calling for the records on the file of the first respondent in pursuant to the impugned order of suspension passed by him in his proceedings No.54145/Admin 5-1/1996-I, dated 26.4.2006 and quash the same as illegal.

PRAYER IN W.P.No.1343 of 2009

Writ Petition filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records on the file of



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the first respondent in pursuant to the impugned order, not permitted to retire from service issued by him in his proceedings No.54145/Admin 5-1/1996-2, dated 26.4.2006 and quash the same as illegal and consequently direct the respondents to allow the Petitioner to retire from service on the date of superannuation ie., on 30.04.2006 and pay all the backwages with interest at 18% per annum within the time stipulated by this Court.

3.The learned Single Judge, who heard all the three Writ Petitions, relying upon the dictum laid down by the Honourable Supreme Court followed by High Courts, particularly, in ***B.Krishnan .vs. TamilNadu Water Supply and Drainage Board reported in (2008) 4 MLJ 776***, held that there is laches on the part of the State to proceed against the Writ Petitioner after framing of charges. Taking note of the fact that while charge-memo was issued in the year 1997, no action was taken till superannuation and on the eve of superannuation, the Writ Petitioner was suspended from service and consequently, he was not allowed to retire from service. The enormous delay of seven years from the date of issuance of charge memo and the order not allowing the Writ Petitioner to retire from service, has ultimately lead to deprivation of paying the retirement benefits. Therefore, the



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learned Single Judge, had allowed all the three Writ Petitions quashing the impugned orders, restraining the Writ Petitioner from retiring from service. There was a direction to the respondents to treat the Writ Petitioner as retired in his normal course of his age of superannuation and pass appropriate orders by paying necessary arrears and that the above said exercise should be completed within a period of 12 weeks from the date of receipt of a copy of the order. Being aggrieved, the State has preferred these Writ Appeals.

4.The learned Additional Government Pleader appearing for the State submitted that besides the charge-memo issued under Section 17(b) of the Tamil Nadu Civil Service(Discipline and Appeal)Rules, the respondent is also facing criminal prosecution for breach of trust and cheating. However, now it is brought to the notice of this Court that the respondent had met his maker, and it is also reported that due to his demise, criminal prosecution against him has been abated. As narrated above, for the misconduct prior to 1997, the appellants after issuing charge-memo, has not proceeded with the domestic enquiry, in accordance with law. For the reasons unknown, for nine years, no disciplinary proceedings was initiated, probably, waiting for the disposal of the criminal case



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initiated against the Writ Petitioner in C.C.NO.359 of 2001, on the file of learned Judicial Magistrate No.I, Thoothukudi. Meanwhile, since he was about to retire on superannuation, he had been put under suspension vide proceedings, dated 26.4.2006 and also was not permitted to retire from service. Apart from the unreasonable delay in proceeding against the respondent, the natural intervention of his death renders the charges against him became abated. As a consequence, these Writ Appeals become infructuous and to be dismissed

5. Accordingly these Writ Appeals are dismissed by confirming the order of the learned Single Judge. The legal representatives of the deceased respondent are entitled to receive the retirement benefits of the deceased respondent as per the directions of the learned Single Judge. The retirement benefits are directed to be disbursed within a period of six months from the date of receipt of the necessary application from the legal representatives of the deceased respondent. There is no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[G.J.,J.] [C.K.,J.]
09.01.2024



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NCS : Yes/No

Index : Yes / No

Internet : Yes / No

vsn



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and
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vsn

COMMON JUDGMENT MADE IN

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and
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