



WP (MD) No.22963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**WP(MD)No.22963 of 2022 &
Rev.Aplw(MD)No.9 of 2022
and
WMP(MD)Nos.17059 and 3013 of 2022**

WP(MD)No.22963 of 2022

S.Rathinavel

Vs

... Petitioner

- 1.The Director of Survey and Settlement /
Additional Director of Survey and Land Records,
Chepauk,
Chennai – 600 005.
- 2.The Regional Deputy Director,
Land Survey and Records Department,
Madurai – 625 020.
- 3.The Assistant Director and Personal Assistant to the
District Collector (Land Survey),
District Land Survey Office,
- 4.M.Rajarajan
Inspector of Survey,
Usilampatti Division,
District Survey Office,
Madurai – 20.



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5.The Secretary to Government,
Revenue Administration and Disaster Management,
Chennai.

... Respondents

[R4 is suo motu impleaded vide
order dated 18.11.2024 and R5 is suo
motu impleaded by order dated
19.12.2024]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus directing the respondents to call for the records pertaining to the impugned suspension order in RC.Y4/39766/2017(Sy)(1) and retention order in RC.Y4/39766/2017(Sy)(2) of the very same day dated 27.11.2017 are liable to be set aside and quash the same as illegal and consequently direct the 1st respondent to permit the petitioner to retire with all monetary benefits with his service by considering the petitioner representation dated 06.04.2022.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

Rev.Aplw(MD)No.9 of 2022

S.Rathinavel

... Petitioner

Vs

1.The Director of Survey and Settlement /
Additional Director of Survey and Land Records,
Chepauk, Chennai – 600 005.



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3.The Assistant Director and Personal Assistant to the
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District Land Survey Office,
Madurai.

... Respondents

PRAYER: Review Application filed under Section 115 r/w Order XLVII Rule 1 of CPC to review the order passed by this Court in WP(MD)No.4372 of 2020, dated 02.11.2021.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.G.V.Vairam Santhosh,

Additional Government Pleader

COMMON ORDER

The petitioner is a Deputy Inspector of Survey and Land Records. The petitioner while working as a Deputy Inspector of Survey and Land Records in the Madurai South Taluk office was placed under suspension by order dated 28.11.2017 pursuant to the office memorandum received from the Vigilance and Anti Corruption Department. The Director of Vigilance and Anti Corruption Department after conducting a preliminary enquiry has sought for permission to register a regular case as against this petitioner to the government and the



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government has after considering the materials placed by the Vigilance Department, granted permission to the Vigilance Department to register the regular case and also instructed the Director of Survey and Settlement to initiate disciplinary proceedings against this petitioner and has granted the sanction vide Government Letter (1D) No.555, Revenue and Disaster Management Department dated dated 28.11.2017. Since a recommendation has been made by the government to register a regular case as against this petitioner, the Director of Survey and Settlement by his proceeding dated 28.11.2017 placed the petitioner under suspension by initiating departmental proceedings under Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

2.The order of suspension of the year 2017 was challenged by this petitioner before this Court in WP(MD)No.4372 of 2020 that the petitioner has been placed under suspension without any enquiry and without issuing any charge memo for more than three years. This writ petition was taken up for hearing in the month of November, 2021 and this Court by order dated 29.11.2021 dismissed the writ petition with a direction to the respondents to get xerox copies of the service particulars of the petitioner, if any, required for the enquiry and to proceed with the departmental proceedings.



3. Subsequently the petitioner has filed the review application before this Court on 16.02.2022, that this Court in the said order in one of the paragraphs has noted that it is a case of trap. Though this review application was filed on 16.02.2022, it has not been listed for hearing. The petitioner instead of taking steps to bring this review application for hearing, has filed the present writ petition to set aside the order of suspension dated. 28.11.2017.

4. Since this petitioner has filed a review application, this court has directed the registry to list the review application along with this writ petition and both the review application and the writ petition are taken up for hearing and disposed of by this common order.

5. The learned counsel for the petitioner submits that this petitioner has rendered 35 years of service. The petitioner has been placed under suspension for the past seven years without any progress in the departmental enquiry from the year 2017. Therefore, he has filed the present writ petition.

6. The ground on which the review application has been filed is that some observations have been made in the order dated 29.11.2021 in WP(MD)No.4372



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of 2020 that since it is a case of trap, the petitioner was placed under suspension.

This Court has recorded that it is a case of trap, instead of, it is a case of Vigilance and Anti Corruption Department. It is not a case of trap. The petitioner instead of filing the review application, ought to have mentioned before the Court to get the order corrected. The observations made in the order dated 29.11.2011 that it is a case of trap would in no way affect the directions given in order dated 29.11.2021. The fact remains that this petitioner is facing a prosecution in a criminal case registered by the Vigilance and anti Corruption Department. It appears that the Vigilance and Anti Corruption Department has filed the final report before the Special Court for Vigilance and Anti Corruption Cases, Madurai. Therefore, this Court is not inclined to entertain the review application on the ground raised by the petitioner.

7.The present writ petition in WP(MD)No.22963 of 2022 is filed challenging the order of suspension dated 28.11.2017, which had already been challenged by the petitioner in WP(MD)No.4372 of 2020 and this Court has already taken a decision on the very same suspension order in the earlier writ petition. The suspension order was passed based on the report of the Vigilance and Anti Corruption Department. Therefore, this Court is not inclined to interfere with



the suspension order, since the same was already decided. However, this petitioner is entitled for a speedy enquiry and speedy trial in the departmental proceedings as well as in the criminal case.

8. The petitioner was placed under suspension in the year 2017. The Vigilance and Anti Corruption Department registered a case as against this petitioner under Sections 466, 467 and 468 IPC and under Sections 13(2) r/w 13(1)(a) and (d) of the Prevention of Corruption Act in Crime No.2 of 2017 and after investigation final report has been filed before Special Court to deal with the Vigilance and Anti Corruption Department cases in Spl.SC.No.2 of 2024. It is not known why the Vigilance Department has taken so many years to file a final report for the case, which was registered in the year 2018. The Vigilance and Anti Corruption Department has conducted a preliminary enquiry, made a request for registering the regular case in the year 2017 itself. The government, in fact, has accorded permission to register the case by order dated 28.11.2017. The criminal case was registered on 05.01.2018. The Vigilance and Anti Corruption Department, which has collected the materials in the preliminary investigation itself has taken five long years to file the final report for filing the final report for the reasons best known to them. The Department, which has placed the petitioner



under suspension pursuant to this request of the Vigilance and Anti Corruption Department, has not proceeded with the enquiry for the past seven years. There is no valid reason from the respondents for not proceeding with the departmental proceedings for the past seven long years. The petitioner who is placed under suspension is also paid subsistence allowance at the rate of 50% of his salary. The government is not supposed to retain the petitioner under suspension for years together without conducting the disciplinary proceedings.

9. Pendency of a criminal case is not a bar to proceed with the departmental proceedings. The government has already issued various directions right from the year 1983, vide G.O.Ms.No.24 Personnel and Administrative Reforms Department (Per.N), dated 22.02.1983. It has been reiterated by several government orders and circulars from time to time. Recently GO.Ms.No.66, Human Resources Management (N) Department dated 06.07.2022 has been passed pursuant to the directions of the Division Bench of this Court in WA.No.1988 of 2021, dated 30.09.2021, reiterating that simultaneous departmental action should be taken against the government servants for their lapses in performing their duties and responsibilities apart from the criminal prosecution. As per this government order, a duty and responsibility is cast upon the disciplinary authority to conduct the



disciplinary proceedings against this petitioner. However, the disciplinary authority in this case has failed to initiate the departmental proceedings against petitioner for the past seven years. Any government employee, who has failed in performing his duties and responsibilities is liable to be subjected for departmental proceedings, equally as against the disciplinary authority in this case also, who has failed to take action as against this petitioner by initiating the departmental proceedings for the past several years.

10. Therefore this Court *suo motu* impleads the Secretary to Government Revenue Administration and Disaster Management to initiate disciplinary proceedings against the disciplinary authority of this petitioner for having failed in proceeding with the disciplinary proceedings against this petitioner for the past seven years. The Government has to change the enquiry officer and ensure that the departmental proceedings initiated as against this petitioner is concluded in a time bound manner, not exceeding a period of six months from the date of receipt of copy of this order. In the event, if the petitioner has not been paid with the eligible subsistence allowance, the same shall also be considered.



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11. In the result, the writ petition and the review application are dismissed.

No costs. Consequently connected miscellaneous petitions are closed.

19.12.2024

Internet : Yes / No

dsk

To

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