



W.P.No.28880 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28880 of 2023

Lt.Col.M.Nagarajan (Rtd)

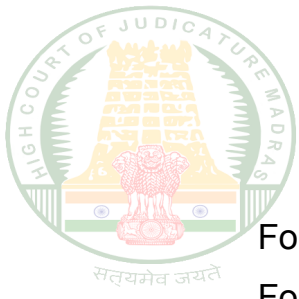
...Petitioner

Vs.

1. State of Tamilnadu
rep. By its Secretary,
Public (Ex-Servicemen) Department,
Fort St. George, Chennai – 600 009
2. The Special Secretary to Government & Director
Public (Ex-Servicemen) Department,
Department of Ex-Servicemen's Welfare,
Secretariat, Chennai – 600 009
3. The Director,
Directorate of Ex-Servicemen's Welfare
No.22, Raja Muthiahslai,
Chennai – 600 003
4. The Joint Director,
Directorate of Ex-servicemen's welfare,
No.22, Raja Muthiahslai, Chennai – 600 003

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent pertaining to the order dated 16.12.2021 vide proceedings No.12366/2021/Nir3 and quash the same and consequently direct the 3rd respondent to accept the petitioner's resignation.



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For Petitioner

: Mr.K.Venkateswaran

For Respondents

: Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

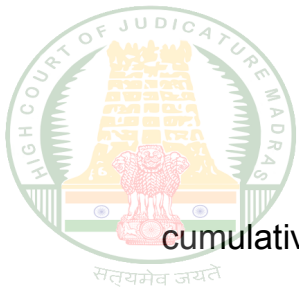
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ORDER

The petitioner has filed this Writ Petition seeking for an issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent pertaining to the order dated 16.12.2021 vide proceedings No.12366/2021/Nir3 and quash the same and consequently direct the 3rd respondent to accept the petitioner's resignation.

2. The brief facts of the case, as averred by the petitioner, are as follows:-

The petitioner had served the Indian Army for 25 years and relieved from Army on 05.08.2014. The petitioner had worked as an Assistant Director in Ex-servicemen Welfare Department at Thoothukudi till 16.09.2021. In the meantime, the petitioner had requested for transfer of his employment to Thiruppur on account of his wife's ill health. Since there was no response, the petitioner requested to relieve him on 16.09.2021. After expiry of notice period, the 3rd respondent vide proceedings dated 16.12.2021 rejected the resignation of the petitioner indicating that under Section 17(b) of Tamilnadu Civil Service (Discipline & Appeal), the 3rd respondent passed an impugned order in G.O.(PA) No.73 dated 20.02.2020 imposing punishment of stoppage of increment with



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cumulative effect for a period of four years. However, as stated in Section 50(4)(i) Tamilnadu Government Servants (Conditions of Service) Act, 2016, there are no charges pending under Section 17(b) of Tamilnadu Civil Service (Discipline & Appeal) as against the petitioner, hence this petition.

3. The learned counsel for the petitioner would submit that there are no charges pending under Section 17(b) of Tamilnadu Civil Service (Discipline and Appeal) as against the petitioner, as stated in Section 50(4)(i) Tamilnadu Government Servants (Conditions of Service) Act, 2016, hence, the 3rd respondent cannot take it as a ground to reject the petitioner's resignation and the order passed by the 3rd respondent is untenable and unsustainable.

4. The learned counsel for the petitioner also submits that resignation is the right of the petitioner and he cannot be forced to continue his duties and the aforesaid order shows the predetermined mind of the 3rd respondent to reject the plea of the petitioner, thereby pleaded to allow the petition.

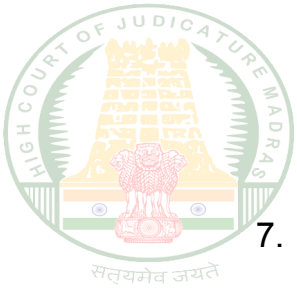
5. Per contra, the learned Additional Government Pleader appearing for the respondents filed a detailed counter and submitted that earlier, the petitioner was issued with a charge memo under Rule 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules for the offences committed while serving as



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Assistant Director of Ex-servicemen Welfare, Virudhunagar. The said disciplinary proceedings against the petitioner was disposed of by the Government with the orders for stoppage of his increment for four years with cumulative effect vide Government Order (D) No.73 Public (ex-servicemen) Department dated 20.02.2020, due to the currency of the punishment, necessary clarification was sought from the government regarding the acceptance of his resignation. The Government has clarified vide letter dated 16.12.2021 that as per Section 50 of the Tamilnadu Government Servant (Condition of Service) Act, 2016, the petitioner's resignation may not be accepted at this stage, since the charges framed under Section 17(b) against the petitioner ended with the punishment of stoppage of increment with cumulative effect for a period of four years. Based on the above clarification from the Government, orders were issued vide proceedings of the Director of Ex-servicemen's welfare no.12366/2021/NIR/E3 dated 16.12.2021 about rejection of his request for resignation, before the completion of three months notice period, as per Tamilnadu Government Servant (Condition of Service) Act, 2016, thereby pleaded to dismiss the petition.

6. Heard the learned counsel on either side and perused the documents placed on record carefully.



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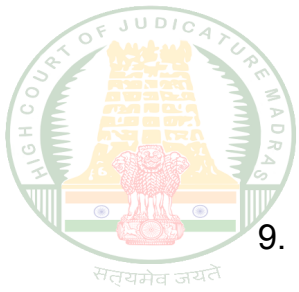
7. It is to be noted that during the petitioner's tenure as the Assistant Director of Ex-servicemen's welfare in Virudhunagar District from 05.09.2014 to 30.12.2016, several representations were received from Ex-servicemen, war veteran and staff of the Virudhunagar District Office during this period about denial / delay of welfare assistance to Ex-servicemen and their dependents, demanding and accepting gratifications for the services rendered to them, displaying unacceptable and improper behavior with ex-servicemen and the staff of the office and irregularities in the management of Government / Welfare funds. A Preliminary enquiry was conducted by the then Joint Director Capt S.M.Aslam on the orders of the Director. On a representation made by the petitioner to the Director of Ex-servicemen's welfare about the unacceptability of the findings by Ex-capt S.M.Aslam, Joint Director (Retd) the disciplinary authority ordered that the preliminary enquiry be conducted afresh by Major V.S.Jayakumar (Retd) Joint Director (Admin & Scheme) at the Directorate of ex-servicemen's Welfare. Based on the reports of the preliminary enquiry, a charge memo containing six charges under 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules was framed against the petitioner vide Director of Ex-Servicemen Welfare Proceedings No.13912/2016/E5 dated 08.10.2017 for violation of various conduct rules prescribed by the Government for its staff.



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8. Subsequently, Major Boni Vincent (Retd) Deputy Director (Now Joint Director, Policy and Welfare) was appointed as enquiry officer to enquire into the above charges. The enquiry officer submitted the enquiry report on 22.10.2018 and the report was submitted to the Government for final orders. The petitioner was awarded with stoppage of increment for four years with cumulative effect as punishment for the proven charges by the Government of Tamilnadu vide G.O.(D) No.73 Public (Ex-servicemen) Department dated 20.02.2020. The orders of the Government with substance of the charge thus reads as follows:-

“The charged officer was appointed to Government service and posted to Virudhunagar district as Assistant Director in August, 2014 following his retirement from Army. Acts of falsification of records of misappropriate funds, misusing officials position to extract pecuniary benefits from ex-servicemen applying for entitled welfare benefits, wilfully causing delay in sanctioning grants with malafide intentions were found corroborated with recordical evidence by the enquiry officer. The enquiry officer has held 5 out of 6 charges as proved and the last one as partly proved” As such charge no.1 to 5 out of 6 charges against the petitioner were held proved and the 6th charge was held as partly proved and accordingly, his increment for next 4 years is stopped with cumulative effect. This punishment will include the period of leave availed by him.”



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9. It is pertinent to point out that as per *Clause (i) of sub-section (4) of Section 50 of Tamilnadu Government Servants (Conditions of Service) Act, 2016 (Tamilnadu Act No.14 of 2016), no disciplinary proceeding is contemplated or pending against the Government servant concerned under sub-rule (b) of Rule 17 of the Tamilnadu Civil Services (Discipline and Appeal) Rules*; Further, as per *Clause (5) of 50 of the Tamilnadu Government Services (Conditions of Service) Act, 2016, "Notwithstanding anything contained in Clauses (I) and (ii) of sub-section (4), where a Government Servant, under suspension or against whom disciplinary or criminal action or vigilance enquiry is pending, seeks to resign, the appointing authority shall examine the nature and gravity of the case and may accept the resignation, if the case is not such as would warrant rejection of the notice of resignation."* Taking into consideration of all the above, the resignation application of the petitioner was rejected, since the punishment awarded to the petitioner for the delinquency committed by him, under sub rule(b) of Rule 17 of the Tamilnadu Civil Services (Discipline and Appeal) Rules, vide G.O.(i) No.73 Public (Ex-Servicemen) Department dated 20.02.2020 was in effect.

10. Though the punishment for the charges levelled against the petitioner would come to an end in the current year, i.e., only in the year 2025, at this stage, the learned Additional Government Pleader appearing for the respondents would



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contend that in another disciplinary proceedings, the petitioner was removed from service and it was challenged in W.P.No.7028 of 2024.

In view of the above, this Writ Petition is dismissed as infructuous on the ground that at the time of filing the present writ petition in the year 2023, 17(b) charges were pending against the writ petitioner and the petitioner is at liberty to agitate his grievances before the pending Writ Petition, viz., W.P.No.7028 of 2024. No costs.

17.03.2025

Index : Yes / No; Internet : Yes / No
Speaking Order / Non Speaking Order
ssd
To

1. State of Tamilnadu
rep. By its Secretary,
Public (Ex-Servicemen) Department,
Fort St. George, Chennai – 600 009
2. The Special Secretary to Government & Director
Public (Ex-Servicemen) Department,
Department of Ex-Servicemen's Welfare,
Secretariat, Chennai – 600 009
3. The Director,
Directorate of Ex-Servicemen's Welfare
No.22, Raja Muthiahalsalai,
Chennai – 600 003



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4. The Joint Director,
Directorate of Ex-servicemen's welfare,
No.22, Raja Muthiahlsalai,
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V.BHAVANI SUBBAROYAN, J.

ssd

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