



W.P.(MD)No.4248 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.4248 of 2025

and

W.M.P.(MD).No.3052 of 2025

R.Kannan

... Petitioner

Vs.

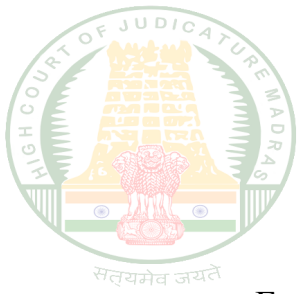
1. The Secretary to Government,
Labour and Employment Department,
Chennai-9.

2. The Commissioner,
Employment and Training,
Guindy, Chennai-32.

3. The Principal,
Government Employment and Training Institute,
Oddanchatram-624 614,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the second respondent Proc.No.3129/OP2/2022 dated 28.03.2024 and quash the same as illegal and consequently direct the respondents to treat the petitioner is deemed to be retired on 31.03.2024 and to pay all the pensionary benefits payable to the petitioner on account of superannuation with interest till the date of realization.



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For Petitioner

: Mr.M.Sivakumar

For Respondents

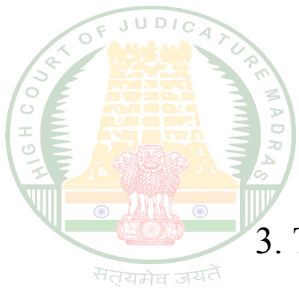
: Mr.P.Subbaraj

Special Government Pleader

ORDER

Heard, the learned Counsel appearing for the petitioner and Mr. P.Subbaraj, learned Special Government Pleader appearing for the respondents and perused the material available on record.

2. The case of the petitioner is that the petitioner who is working as a Training Officer in the third respondent institute kept under suspension vide proceedings of the second respondent dated 28.03.2024 on the ground of pendency of criminal case in C.C.No.400 of 2023 on the file of Judicial Magistrate Court, Dindigul. The said order is under challenge in the present writ petition. In the impugned order, the second respondent not permitting the petitioner to retire from service on the date of attaining superannuation i.e., on 31.03.2024.

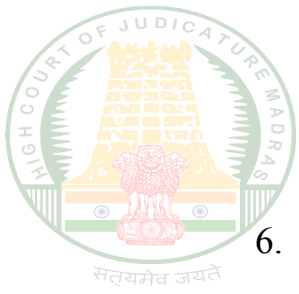


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3. The learned Counsel for the petitioner submits that the after the demise of his father, his sister filed a criminal case against the petitioner and FIR has been registered in Crime No.41 of 2021. After filing charge sheet, it was numbered as C.C.No.400 of 2023 on the file of the Judicial Magistrate, Dindigul, which is still pending.

4. In view of the pendency of the said criminal case, the second respondent has issued the impugned order on 28.03.2024 just two days prior to retirement of the petitioner, which is not permissible as per the relevant Service Rules and as per the Instructions issued by the State Government vide G.O.Ms.No.111, Human Resources Management (N) Department dated 11.10.2021.

5. The learned Special Government Pleader appearing for the respondents submitted that by following rule 56(i)(c) of the Fundamental Rules, the petitioner is not permitted to retire on reaching his date of superannuation i.e., 31.03.2024 and he has allowed to retire from service only if the criminal case is acquitted. The learned Special Government would further submit that there is no infirmity or irregularity in the impugned order.



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6. Considered the submissions of the respective counsel and carefully

perused the materials available on record.

7. It is an admitted fact that the petitioner, who reached the age of superannuation has to retire on 31.03.2024. But, he has been placed under suspension, just two days prior to his retirement, by an order dated 28.03.2024. Except mentioning about the pendency of the said criminal case against the petitioner, no other reasons have not been stated in the impugned order, so as to why he was kept under suspension. In fact, the said criminal case was registered against the petitioner in the year 2021 filed by the sister of the petitioner. But, till 2024, the second respondent did not take any steps against the petitioner and having failed to take any action for many years, all of a sudden, now the petitioner has been placed under suspension just two days prior to the date of his retirement.

8. This Court and Apex Court time and again held that initiating disciplinary proceedings against the employees at the verge of retirement should be avoided, as it would prejudice the employees and it does not serve any public interest. The Government has also issued guidelines to that effect to avoid the



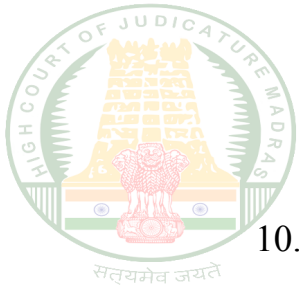
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practice of suspending the employees at the verge of retirement. In G.O.Ms.No.

111, Human Resources Management(N) Department, dated 11.10.2021, the

Government has issued orders to avoid last minute suspension and guidelines have been issued to that effect stating that the disciplinary action if any initiated against an employee should be completed well before the retirement if the alleged wrong or lapse came to the knowledge of the disciplinary authority before three month from the date of retirement. There is no allegation against the petitioner that he is involved in any corruption or corrupt practice during discharging his service. It appears that the criminal case is pending against the petitioner has been filed by his sister in the year 2021.

9. In this regard, it is relevant to refer to the order of this Court in ***W.P.(MD).No.26571 of 2022, vide order dated 26.04.2024 (K.Saravanan vs The Joint Director of School Education (Personnel), Chennai and another,*** wherein, after referring the judgement of the Hon'ble Supreme Court in ***P.V.Mahadevan vs Managing Director, TamilNadu Housing Board reported in 2005(4) CTC 403***, has held that placing an employee under suspension on the date of his retirement is violative of the orders of the Government.



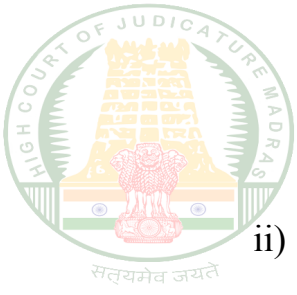
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10. In view of the settled position of law that an employee shall not be suspended at the verge of his retirement and that, the disciplinary proceedings if any to be initiated and completed on a war-footing basis, if an irregularity or lapse came to the notice of the Department within three months prior to retirement, the impugned orders are liable to be set aside.

11. In identical case in W.P.(MD).No.11975 of 2024, this Court by an order 12.06.2024, quashing the impugned orders therein and directed to permit the petitioner to retire from service with effect from the date of superannuation with all attendant benefits. The issue involved in the present writ petition is squarely covered by the order stated supra.

12. For the reasons stated above, this writ petition is allowed with the following directions:

i) The order issued by the second respondent dated 28.03.2024 is hereby set aside



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ii) The second respondent is directed to permit the petitioner to retire from service with effect from the date of his superannuation with all attendant benefits and release the terminal benefits within a period of six weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

12.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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BATTU DEVANAND, J.

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To:

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2. The Commissioner,
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