



WP(MD)No.13050 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.13050 of 2023
and
WMP(MD)No.11046 of 2023**

A.Sankaranarayanan

... Petitioner

Vs

**1.The Inspector General of Police,
Tirunelveli Range,
Tirunelveli District.**

**2.The Director General of Police,
Tamil Nadu, Chennai.**

**3.The Superintendent of Police,
Tenkasi,
Tenkasi District.**

**4.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order of the 1st respondent in ROO.NO. 293/2022 in C.No.C1/3261/2022, dated 23.06.2022 and consequential order of the 3rd respondent in his proceedings in D.O.No.573/2022



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C.No.R3/41/13540/2022, dated 29.06.2022 and quash the same as illegal and consequently direct the respondents to permit the petitioner to retire from his service with all attendant benefits.

For Petitioner : Mr.S.Gokulraj

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

Additional Government Pleader

ORDER

The petitioner is a Sub Inspector of Police. He was due to retire on 30.06.2022, however, he was not permitted to retire from service on attaining the age of superannuation, was placed under suspension and was retained in service. Challenging the order of suspension and the order of retention, this writ petition is filed.

2.The petitioner was not allowed to retire in view of the criminal case pending against him in Crime No. 5 of 2020 on the file of the District Crime Branch. This criminal case appears to have been registered based on the reference made by the learned Judicial Magistrate, Tirunelveli under Section 156 CrPC. The case in Crime No.5 of 2020 was registered for the offence under Sections 120(b), 147, 148, 177, 182,



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203, 211, 217, 218, 294(b), 341, 342, 326, 307 and 506(ii) IPC and Sections 7, 8 r/w 113 of Prevention of Corruption Act, 1988 and it was subsequently closed as mistake of fact by the investigating officer / the Deputy Superintendent of Police, District Crime Branch, Tirunelveli. Even after closure of the criminal case, this petitioner is not allowed to retire and therefore, this petitioner is before this Court.

3.The learned Counsel for the petitioner submits that the petitioner was not allowed to retire and was retained in service in view of the pendency of the criminal case in Crime No.5 of 2020 which was registered as against him and it has been subsequently closed as mistake of fact. Even thereafter the respondent police are not allowing him to retire from service and retaining him in service.

4.The learned Additional Government Pleader appearing for the respondents submits that though the case in Crime No.5 of 2020 was closed as mistake of fact, the defacto compliant in Crime No.5 of 2020 has filed a protest petition before the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli and it is pending. In view of the pendency of the protest petition, they have not taken any action.



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5.Considering this submissions made on behalf of the respondent

Police, this Court by earlier order dated 16.12.2024 directed the Registry to get a report from learned Judicial Magistrate, Additional Mahila Court, Tirunelveli, who in turn has submitted a report dated 26.12.2024 stating that the case in Crime No.5 of 2020 was filed as against six accused. However, the investigation officer has filed a referred charge sheet on 19.01.2021 Therefore, the court has issued a notice to the de facto complainant on 15.06.2022. The defacto complainant has filed a protest petition on 22.08.2022. The defacto complainant was examined on 08.11.2023. The sworn statement of the de facto complainant was recorded on 14.03.2024, the statement of PW 2 was recorded on 14.05.2024. The case was posted for production of further witnesses. Only after 14 hearings the defacto complainant has produced the witnesses PW3 and PW4 and their statements were recorded on 11.12.2024 and posted for hearing on 20.01.2025. Therefore according to the learned Judicial Magistrate, the protest petition was not entertained by the Court and notice was ordered to the accused.



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6.The petitioner was not allowed to retire from service based on the criminal case in Crime No.5 of 2020, which was registered pursuant to the directions of the learned Judicial Magistrate, under Section 156 of CrPC. Perusal of the final report reveals that the defacto complainant had some influence through a Member of Legislative Assembly. The investigating officer has given a clear and definite finding that at the instance of an MLA, the defacto complainant has foisted this false complaint.

7. It is pertinent to record that the defacto complainant has made out a case that he was assaulted brutally and he was admitted in the hospital from 22.09.2019 to 26.09.2019 However, the doctor's certificate revealed that there was no solid organ injury on the de facto complainant. Admittedly, the Department has not initiated any departmental proceedings as against the petitioner. In the absence of any departmental proceedings and when the final report in the criminal case has been filed in favour of the petitioner, it is not proper on the part of the respondents to retain the petitioner in service by not allowing him to retire from service.



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8. In view of the above discussion, this writ petition is allowed and the impugned orders are set aside. The respondents are directed to allow the petitioner to retire from service. No costs. Consequently connected miscellaneous petitions are closed.

06.01.2025

DSK

To

1. The Inspector General of Police,
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B.PUGALENDHI.J.,

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