
(2010) 07 MAD CK 0248
In the Madras High Court
Case No : Writ Petition No. 11709 of 2009

R. Manoharan

APPELLANT

Vs

The Principal Secretary/Transport Commissioner

RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17

Citation : (2010) 07 MAD CK 0248

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; Lita Srinivasan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—The petitioner was employed as an Assistant in the Office of the Regional Transport Officer, Trichy. While so, he was placed under suspension by an order dated 19.09.2003, on the ground that enquiry into the allegations of misappropriation of Government money against the petitioner was contemplated. Thereafter, a charge memo was issued under Rule 17(b) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules.

2. However, suspension was revoked and the petitioner resumed duty. After, he resumed duty, the enquiry got concluded and the Enquiry Officer submitted his report dated 17.06.2007 holding that the charges were not proved. The Disciplinary Authority accepted the aforesaid findings of the Enquiry Officer and dropped the charges on 20.06.2008.

3. A criminal case was filed on the same set of allegations in FIR No. 9 of 2003 on the file of Trichy Mega City Police Station. However, during the pendency of the criminal case, the Department did not think of keeping the petitioner under suspension, as stated above, the suspension was revoked and he was permitted to resume duty.

4. While so, on the eve of retirement on 31.01.2009, the respondent passed an order, dated 29.01.2009, under Rule 17(e) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, placing the petitioner under suspension on the ground that the appropriate authority is conducting investigation on the criminal case filed against the petitioner.

5. The respondent passed another order, dated 30.01.2009, not permitting the petitioner to retire from service invoking its power u/s 56(1) of the Fundamental Rules.

6. While so, the petitioner has filed the present Writ Petition seeking to quash the aforesaid orders dated 29.01.2009 and 30.01.2009 of the respondent and consequently direct the respondent to permit the petitioner to retire from service in the normal course on 31.01.2009 AN and to disburse all consequential monetary benefits with interest.

7. Notice of motion was ordered on 29.06.2009.

8. Heard Mr. M. Ravi, learned Counsel for the petitioner and Mrs. Lita Srinivasan, learned Government Advocate for the respondent.

9. The learned Counsel for the petitioner states that after investigation, a charge sheet was filed against the petitioner along with 16 others in C.C. No. 167 of 2008 before the learned Judicial Magistrate-II, Trichy. It is further stated that the petitioner filed Crl. O.P. No. 8734 of 2009 before this Court to quash the charges framed against him. This Court on 28.04.2010 in Crl. O.P. No. 8734 of 2009 allowed the Criminal Original Petition and quashed the charges.

10. The learned Counsel for the petitioner further submits that the matter is squarely covered by the Division Bench Judgment of this Court in D. Narayanan Vs. District Revenue Officer, The Revenue Divisional Officer and The Registrar, Tamil Nadu Administrative Tribunal, . According to him, even in case some punishment is imposed on the basis of the proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, the Department cannot impose another punishment after the Criminal Court finds him guilty of the charges, on the same set of allegations. In view of the categorical pronouncement of this Court holding in the above terms, the impugned orders are liable to be quashed. In any event, the learned Counsel for the petitioner submits that in this case, the criminal charge made against the petitioner was quashed.

11. On the other hand, the learned Government Advocate submits that the aforesaid Division Bench Judgment relied on by the petitioner is not applicable to the facts of this case, as the charges made against the petitioner in the Departmental enquiry and the charges which the petitioner faced in the criminal case are different. However, the learned Government Advocate does not dispute that the criminal charge was quashed by this Court on 28.04.2010 in Crl. O.P. No. 8734 of 2009.

12. I have considered the submissions made on either side.

13. In this case, the criminal charge was quashed besides, the Disciplinary Authority dropped the charges. In these circumstances, there is no justification for the respondent to keep the petitioner under suspension and not permitting to retire from service. Hence, the impugned orders are liable to quashed.

14. The petitioner already reached the age of superannuation on 31.01.2009. The Disciplinary Authority dropped the charges relating to the Departmental enquiry. The criminal charge also got quashed. In these circumstances, the petitioner is entitled to terminal benefits along with interest at the rate of 10% for the belated payment, as per the Judgment of the Division Bench of this Court in Govt. of Tamil Nadu rep. by the Secretary to Government, Revenue Department, Chennai and Anr. v. M. Deivasigamani reported in (2009) 3 MLJ 1.

15. While quashing the impugned orders, a direction is issued to the respondent to settle the terminal benefits along with interest at the rate of 10% per annum within a period of six weeks from the date of receipt of a copy of this order.

16. The writ petition is allowed on the above terms. No costs.