

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17684 of 2015
and
M.P.Nos.1 & 2 of 2015

K.Rajendran

[Petitioner]

Vs

1 The Chief Inspector of Factories
Chepauk Chennai-5

2 The Member Secretary
State Level High Power Triparties Safety and
Task Force Expert Committee, Chennai-35

3 The Government of Tamilnadu
rep. by its Secretary
Labour and Employment M1 Department
Government of Tamilnadu
Secretariat Fort St. George
Chennai-9.

[Respondents]

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorari, to call for the records pertaining to the issue of the order in proceedings bearing G.O.(2D) NO.51 Labour and Employment M1 Department dated 19.9.2014 duly issued by the 3rd respondent directing an increment cut for 9 months and the consequent recovery of Rs.62 600/- at the rate of Rs.7 000/- per month for 8 months and a sum of Rs.6 600/- for the 9th month from the petitioner salary and quash the same.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.P.Sanjay Gandhi, AGP

O R D E R

Heard Mr.D.Ashok Kumar, learned counsel for the petitioner and Mr.P.Sanjay Gandhi, learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition is taken up for final disposal.

2. This writ petition has been filed by K.Rajendran, challenging G.O.(2D) NO.51, Labour and Employment (M1) Department, dated 19.9.2014, issued by the Secretary, Labour and Employment (M1) Department, the 3rd respondent, imposing punishment of stoppage of increment for a period of 9 months and the consequent recovery of Rs.62,600/- at the rate of Rs.7,000/- per month for 8 months and a sum of Rs.6,600/- for the 9th month from his salary.

3. The learned counsel appearing for the petitioner would submit that although the petitioner suffered the departmental proceedings by issuance of a charge memo dated 17.06.2004, he was able to convince the enquiry officer. Therefore, the enquiry officer, having been convinced, finding him not guilty on both the charges, submitted a report in favour of the petitioner, stating that the charges levelled against him are bereft of any substance. However, the disciplinary authority, differing with the finding of the enquiry officer, issued a fresh notice, calling upon the petitioner to submit his explanation as to why he should not differ from the findings of the enquiry officer, for which, the petitioner also submitted his explanation and requested to accept the report of the enquiry officer. However, the disciplinary authority imposed the aforesaid punishment as against the petitioner. Aggrieved against the said punishment imposed, the petitioner, preferred an appeal before the 3rd respondent on 09.01.2015 and the same is pending.

4. According to the learned counsel for the petitioner, the sole grievance of the petitioner is that since he is going to retire by reaching the age of superannuation on 30.06.2015, when the petitioner has been facing departmental enquiry from 2004, he would be satisfied if the pending appeal is disposed of before his retirement, so that he will be able to prove his innocence and leave the office with unblemished record of service. Further, according to him, if a direction is given to the 3rd respondent to dispose of the appeal filed by the petitioner on merits on or before 30.06.2015 by keeping the impugned order in abeyance, no one would be prejudiced.

5. Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents submitted that the petitioner has been

imposed with the punishment of stoppage of increment for a period of nine months along with recovery of Rs.62,600/- at the rate of Rs.7,000/- per month for 8 months and a sum of Rs.6,600/- for the 9th month from his salary. However, he would submit that reasonable time may be granted to the 3rd respondent to dispose of the appeal on merits and in accordance with law.

6. This Court considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. Keeping in mind the fact that the petitioner has been facing the departmental proceedings from 2004 coupled with the fact that the report of the enquiry officer is in favour of the petitioner, this Court is inclined to direct the 3rd respondent-appellate authority to take up the pending appeal and dispose of the same on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. This direction is issued for the reason that the petitioner is reaching the age of superannuation on 30.06.2015.

8. Since the finding of the enquiry officer is in favour of the petitioner and the recovery proceedings has not been given effect to, the respondents shall not recover the amount as indicated in the impugned order, till the disposal of the appeal.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1 The Chief Inspector of Factories
Chepauk Chennai-5

2 The Member Secretary
State Level High Power Triparties Safety and
Task Force Expert Committee, Chennai-35

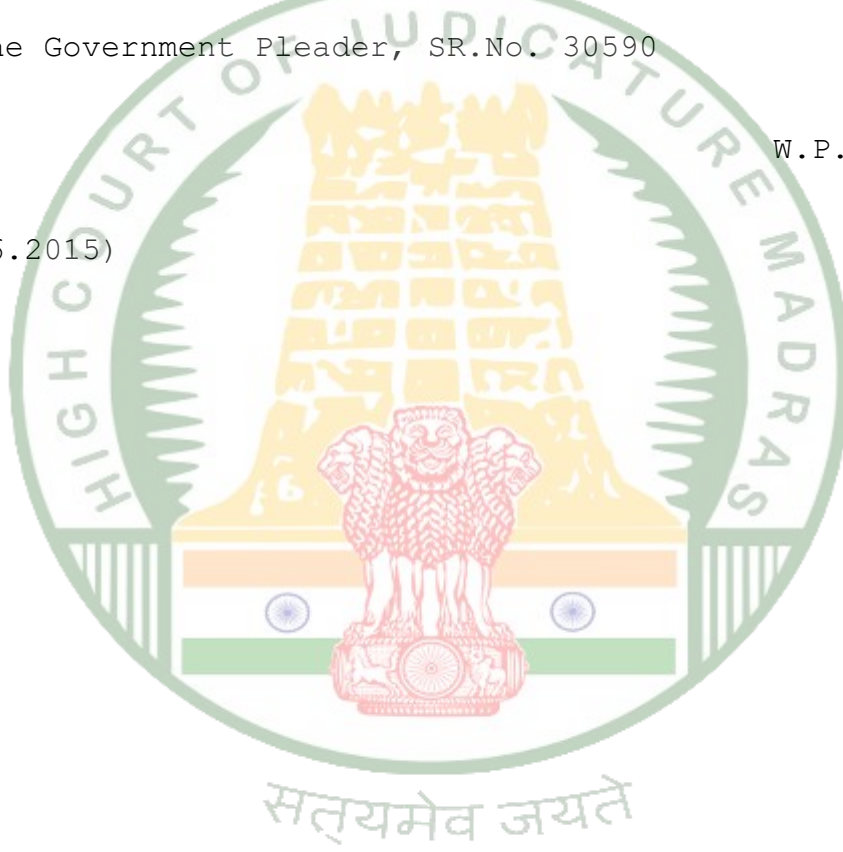
3 The Secretary
The Government of Tamilnadu
Labour and Employment M1 Department
Government of Tamilnadu
Secretariat Fort St. George Chennai-9

1 CC to Mr.D.Ashok Kumar, Advocate SR.No. 30423

1 CC to the Government Pleader, SR.No. 30590

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MSM (CO)
PSI (23.06.2015)



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