

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition Nos.11972 of 2012
and
17795 of 2015

R. RaviPetitioner in both petitions

vs.

1. The Collector
Coimbatore District.
2. Mr.R.Shanmugam (Inquiry Officer)
Selection Grade Executive Officer
Vellaikinnaru Town Panchayat
Coimbatore District.Respondents in W.P.No.11972 of 2015
1. The Secretary to Government of Tamil Nadu
Municipal Administration and Water Supply Department
Fort St. George, Chennai - 9.
2. The Director of Town Panchayats
Kuralagam,
Chennai - 104.Respondents in W.P.No.17795 of 2015

Writ Petition No.11972 of 2012 filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the proceedings of the first respondent in its Proceedings No.1266/2007/TP2 dated 25.05.2011 insofar as it reinstates the petitioner without prejudice to the disciplinary proceedings pending against the petitioner and the consequential proceedings of the first respondent in No.1266/2007/TP2 dated 17.07.2011 and the proceedings of the second respondent in its Na.Ka.No.562/2011 dated 12.04.2012.

Writ Petition No.17795 of 2012 filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus to direct the respondents to promote the petitioner as Executive Officer Selection Grade on adhoc or working arrangement basis on par with his juniors from out of the seniority list of Executive Officer Grade-I for the year 2011-2012 without reference to the charge memo dated 10.04.2007 and in light of orders passed in W.P.16210/2008 dated 26.11.2009 and confirmed in W.A.No.1242/2010 dated 23.3.2011.

For Petitioner : Mr. N. Balamuralikrishnan
in both the petitions

For Respondents : Mrs. M.E.Rani Selvam
in both the petitions Addl. Govt. Pleader for R1
No Appearance for R2.

COMMON ORDER

The petitioner joined the service as Bill Collector in the year 1983 and got promotion as Junior Assistant, Executive Officer, Grade II and finally as Executive Officer Grade I.

2. While so, he was served with a Charge Memo dated 10.04.2007 making certain allegations. The details of the Charge Memo are not necessary for the disposal of these writ petitions. An enquiry was conducted. Based on the enquiry report, the petitioner was removed from service by an order dated 11.01.2008.

3. The petitioner challenged the dismissal order by filing Writ Petition No.16210 of 2008. This Court passed a detailed order setting aside the removal order by allowing the said writ petition on 26.11.2009. The learned single Judge has discussed about the infirmities in the enquiry in detail and set aside the dismissal order and there was no order for remanding the matter back to the authority for holding an enquiry.

4. While so, the respondents filed Writ Appeal No.1242 of 2010 challenging the order of the learned single Judge. The said writ appeal was dismissed on 23.03.2011.

5. Thereafter, the District Collector, Coimbatore passed an order dated 17.07.2011, directing the Enquiry Officer to go ahead

with the enquiry afresh, in the said circumstances. Based on the same, the Enquiry Officer issued a notice dated 12.04.2012, directing him to appear for the enquiry on 25.04.2012. The petitioner filed Writ Petition No.11972 of 2012, questioning the aforesaid order dated 17.07.2011 of the District Collector, Coimbatore as well as the notice dated 12.04.2012.

6. While admitting Writ Petition No.11972 of 2012 on 26.04.2012, this Court granted interim stay of further proceedings. In view of the same, no inquiry takes place.

7. It is stated by the learned counsel for the petitioner that the Enquiry Officer, who issued the notice dated 12.04.2012, has retired from service.

8. In these circumstances, the petitioner filed another Writ Petition No.17795 of 2015 seeking for a direction to promote him as Executive Officer Selection Grade on adhoc basis without taking into consideration the pendency of the disciplinary proceedings pursuant to the Charge Memo dated 10.04.2007.

9. I have perused the order dated 26.11.2009 passed in Writ Petition No.16210 of 2008. Even when the learned single Judge found various infirmities in the procedure in conducting an enquiry, learned Judge did not come to the conclusion that the charges were not established. In view of the infirmities, the dismissal order was set aside. Therefore, I do not find any infirmity in the order of the District Collector dated 17.07.2011 to conduct an enquiry afresh based on the Charge Memo dated 10.04.2007. Hence, I am not inclined to quash the order dated 17.07.2011 of the District Collector ordering for fresh enquiry.

10. However, it is stated that the Enquiry Officer, who issued the notice dated 12.04.2012, has retired from service. In these circumstances, the District Collector, Coimbatore is directed to appoint an Enquiry Officer forthwith as the matter is pending from 2007 onwards and in view of the pendency of the disciplinary proceedings, the petitioner is not able to get further promotion to the post of Executive Officer Selection Grade, while his juniors were promoted to the said post.

11. Thus, while disposing of both the writ petitions, the District Collector, Coimbatore is directed to appoint an Enquiry Officer forthwith and further directed to complete the disciplinary proceedings and pass final orders on the Charge Memo dated 10.04.2007 within a period of four months from the date of receipt of a copy of

this order. No costs. Consequently, M.P. Nos.2 of 2012 and 1 of 2015 are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ATR

Copies to

1. The Collector
Coimbatore District.
2. The Secretary to Government of Tamil Nadu
Municipal Administration and Water Supply Department
Fort St. George, Chennai - 9.
3. The Director of Town Panchayats
Kuralagam, Chennai - 104.

1 CC to Mr.V.Vijay Shankar, Advocate SR.No. 37134

1 CC to the Government Pleader, SR.No. 37063

W.P.Nos.11972 of 2012 & 17795 of 2015

VGI (CO)
PSI (29.07.2015)

सत्यमेव जयते

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