

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 27.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.No.15862 of 2016

Kakirala Veerabhadra Rao

...Petitioner

Versus

- 1.The Chairman/Reviewing Authority,
Food Corporation of India,
Head Office,
No.16-20, Barakhamba Lane,
New Delhi 110 001.
 - 2.The Managing Director/Appellate Authority,
Food Corporation of India,
Head Office,
No.16-20, Barakhamba Lane,
New Delhi 110 001.
 - 3.The Executive Director (South)/Disciplinary Authority,
Food Corporation of India,
South Zone, Chennai 600 006.
- ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the first respondent to consider and dispose of the petitioner's statutory review application dated 23.02.2012 pending before the first respondent within a stipulated time fixed by this court.

For Petitioner :: Mr.K.Manikandan

For Respondents :: Mr.S.Vijayakumar

O R D E R

Mr.Kakirala Veerabhadra Rao, aged about 70 years has filed this writ petition seeking a writ of mandamus directing the first respondent to consider and dispose of his statutory review application dated 23.02.2012 pending for consideration before the first respondent.

2.Heard the learned counsel appearing for the petitioner.

3.Mr.S.Vijayakumar, learned counsel who takes notice for the respondents submitted that the present writ petition is not maintainable since the petitioner has suffered order of dismissal and the same is also confirmed by the Appellate Authority, no order is required to be passed.

4.The claim of the petitioner is that he was subjected to department proceedings and the Enquiry Officer found him guilty of all the charges and as a result, the third respondent has passed the order of dismissal vide order dated 26.06.2007. Aggrieved by the same, he has preferred an appeal before the second respondent and the same was also dismissed by order dated 30.05.2008. The criminal case pending against the petitioner before the Special Judge, Hyderabad in C.C.No.17 of 2005 came to be disposed on 30.06.2011, acquitting the petitioner fully from the criminal case along with the other two employees. Based on the order passed by the criminal court acquitting him from the criminal charges, he has filed a statutory review application on 23.02.2012 before the first respondent to review the order passed in the appeal dated 30.05.2008. As no progress has been shown by the first respondent/the Reviewing Authority, the petitioner has approached this court. But, this court is not inclined to entertain the prayer for giving direction as prayed for, for the reason that the petitioner has suffered order of dismissal after full fledged departmental enquiry conducted by the third respondent and finally, he was imposed with punishment of dismissal by order dated 30.06.2007 and the correctness of the order was confirmed by the appellate authority/the second respondent by order dated 30.05.2008. Thereafter, the learned Special Judge, Hyderabad acquitted him in C.C.No.17 of 2005 on 30.06.2011 on the basis of the findings of the criminal court, thereafter, the petitioner has moved an application for reviewing the order passed in the departmental proceedings. In the meanwhile, the order of dismissal became final, therefore, no writ will lie now.

5.Since the standard of proof required to be established before the domestic enquiry is different from the one to be established before the criminal court viz., as the disciplinary authority has followed the principles of preponderance of probability and finally, found the petitioner

guilty, the first respondent cannot take the standard of proof that is being applied before the criminal court. Therefore, the writ petition fails and the same is dismissed. No costs.
vri

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

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 - 3.The Executive Director (South)/Disciplinary Authority,
Food Corporation of India,
South Zone, Chennai 600 006.
- + 1 cc to Mr.S.Vijayakumar, Advocate, SR 26538
- + 1 cc to Mr.K.Manikandan, Advocate, SR 26368

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