

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016
CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.22143 of 2015
And
W.M.P.No.391 of 2016 + M.P.No.1 & 2/15

E.Bathiah ... Petitioner

Vs.

- 1.The Board of Directors
SIPCOT, Egmore, Madras - 8.
- 2.The Chairman and Managing Director/ Principal Secretary
SIPCOT 19/A, Rukmani Lakshmipathy road
Egmore, Madras - 8.
- 3.Madumathi Kumar ... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorari calling records of the 2nd respondent in No: E3/MISC/17/2010 dated 09.06.2015 and to quash the same as illegal, incompetent and without jurisdiction.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.Sudarsanasundar

O R D E R

The petitioner has filed this writ petition seeking for issuance of Certiorari calling for the records of the second respondent in No: E3/MISC/17/2010 dated 09.06.2015 and to quash the same as illegal, incompetent and without jurisdiction.

2.By consent, the writ petition is taken up for final disposal.

3.The petitioner joined the services of the respondent on 01.07.1988. Subsequently, he was promoted as Deputy Manager on 07.07.1995 and thereafter as Manager on 10.01.2008.

4.The following are the two charges framed against the petitioner pertaining to the conduct of the case pending before this Court in W.P.No.16409 of 2008 in which the respondents herein are the respondents therein:

"Charge No.1:

"that he, by not taking proper follow up action for vacating the stay granted by the Hon'ble High Court, allowed the company to enjoy the possession of the plot even after cancellation, and also restrained the organization to initiate further course of action in accordance with the provisions of the earlier cancellation order dt: 18.06.2008 including resumption of the plot in question from the allottee company; thereby failed to protect the interest of the Corporation."

Charge No.2:

"that he, by committing these lapses has violated Rule 20 of the Tamil Nadu Government Servant conduct rules; thereby making himself not fit to hold the post".

5.The Enquiry Officer found charge no.1 as partly proved and consequentially held charge no.2 as proved. Challenging the same, the present writ petition is filed.

6.The learned counsel appearing for the petitioner submitted that the stay was made absolute due to the non-appearance of the counsel appearing for the respondents. It is the duty of the legal department or the panel Advocate to deal with the matter especially, when the petitioner has given instructions. A similar charge framed against one Mrs.Gowri Keshub Chander (AGM), Senior Project Manager, SITP, Siruseri was held as not proved. Therefore, the impugned order is liable to be set aside.

7.The learned counsel appearing for the respondents submitted that it is not in dispute that the petitioner was working as Manager at the relevant point of time. Therefore, it is the duty of the petitioner to see that the case was conducted properly. Had the petitioner given instructions properly and followed the case thereafter, the situation would not have occurred. The learned counsel further submitted that as the Enquiry Officer confirmed the relevant material and the same was approved by the Disciplinary Authority on proper application of mind, no interference is required.

8. When the matter was taken up by this Court on 17.03.2009, admittedly, there was no representation on behalf of the petitioner as well as the respondent. Thus, this Court on its own made interim stay already granted as absolute. Incidentally, the matter was posted for final hearing. Once the case is entrusted on behalf of the party, then the duty is upon the counsel to take care of it. There is no question of the petitioner following the case thereafter, especially, in view of the availability of the legal department which is meant to take care.

9. It has been brought to the notice of this Court by the learned counsel appearing for the petitioner that even now, the writ petition is yet to be disposed of. If that is the case, this Court is at last to understand that writ petitioner alone cannot be made responsible for the continued delay. The substantial charge against the petitioner starts from the date - 17.03.2009 on which the case was not taken care of. Therefore, this Court is of the considered view that the petitioner cannot be made to suffer for the inability of the Registry. Though the writ petition was directed to be posted for final hearing, the same was not posted during the second week of June, 2009, the same has not been disposed of till now. The only progress appears to be that the case has been put up in the list.

10. The charge memo was issued on 31.10.2011. Suffice, it is to state that atleast from thereon either no steps have been taken to bring the case in the list or the steps have failed. The stand taken by the petitioner about the role of the legal department has not been dealt with in proper perspective. The petitioner was not asked to come to the Court by the counsel. There is no material available about the communication sent by the counsel to the petitioner leading to the interference that he has failed to discharge his duty. There is also no finding on the role said to have been played by the petitioner in forwarding the remarks.

11. Considering the above, this Court is of the view that the order impugned cannot be sustained in the eye of law. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Board of Directors
SIPCOT, Egmore, Madras - 8.

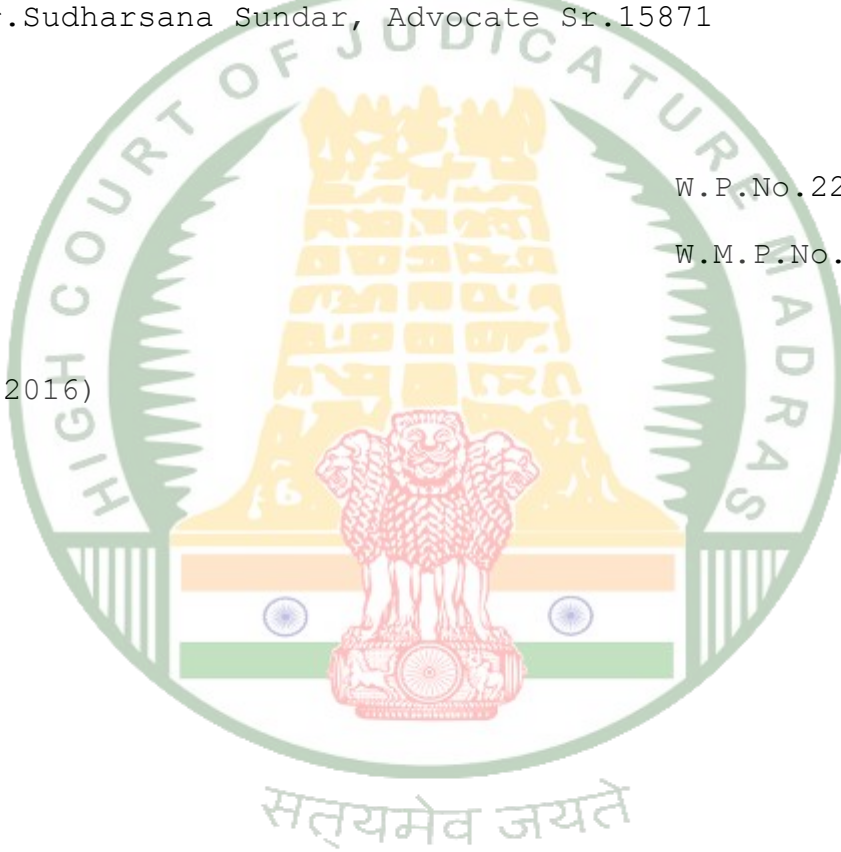
2.The Chairman and Managing Director/ Principal Secretary
SIPCOT 19/A, Rukmani Lakshmipathy road,
Egmore, Madras - 8.

+lcc to Mr.V.Raghavachari, Advocate sr.15943

+lcc to Mr.Sudharsana Sundar, Advocate Sr.15871

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srg(15/03/2016)



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