

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE M. V.MURALIDARAN

W.A.No.715 of 2016

and

C.M.P.No.9341 of 2016

1. The Board of Directors
SIPCOT, Egmore, Madras-8.
2. The Chairman and Managing Director/
Principal Secretary
State Industries Promotion
Corporation of Tamil Nadu Ltd.,
(SIPCOT), 19-A, Rukmani Lakshmipathy Road
Egmore, Chennai 600 008.
3. Madumathi Kumar ... Appellants
vs
E.Bathiah ... Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the common order dated 11.03.2016 passed in W.P.No.22143 of 2015

WP.No.22143/2015:Writ Petition is 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 appellants :: Mrs.Sudharshana Sunder

For respondent :: Mr.K.Sridhar

JUDGMENT

(Judgement of the Court was made by
HULUVADI G.RAMESH, J.)

Heard the learned counsel for the appellants and the learned counsel representing the respondent.

2. The respondent, who was then employed as a Deputy Manager, now Manager in the Development Department of the appellant-Corporation was issued with a charge memo dated 31.10.2011 stating that he has not taken proper follow up action for vacating the stay granted by this Court in W.P.No.16409 of 2008 against the petitioner company therein during the period from 2009 to 2011 and for allowing the said company to enjoy the possession of the plot even after cancellation order was passed by the appellant-Corporation as early as 18.06.2008. After Enquiry, the Enquiry Officer held that the charges alleged against the respondent is proved and thereby imposed him with penalty of stoppage of one increment with cumulative effect for a period of six months. Aggreived by the said order, the respondent herein filed W.P.No.22143 of 2015 and this Court vide order dated 11.03.2016, while allowing the writ petition, set aside the order of punishment imposed by the appellant-Corporation.

3. Being dissatisfied with the said order, the SIPCOT Management is before this Court by way of writ appeal.

4. Perused the records.

5. It appears the learned Single Judge has set aside the order of punishment on the ground that the charge memo was issued to the respondent only on 31.10.2011 and till such time, the appellant-Corporation has not taken any steps to list the case. It further held that even though interim stay was granted and that it was made absolute due to the non-appearance of the appellant-Corporation, in favour of the petitioner company in the said W.P.No.16409 of 2008 by this Court, the appellant-Corporation through its Legal Department has not taken any positive steps to vacate the stay granted by this Court. In such circumstances, the learned Single Judge held that it is the dereliction of duty on the part of the Legal Department of the appellant-Corporation and for the same, the respondent herein cannot be blamed.

6. It also appears that the respondent has given proper instructions to the Legal Department even then the SIPCOT

Management have not taken appropriate steps to defend the case. The learned Single Judge, while recording its reasoning in para No.10 of the order has held that, there is no material available about the communication sent by the counsel to the respondent herein leading to the interference that he has failed to discharge his duty. It further held that there is also no finding on the role said to have been played by the respondent in forwarding the remarks. In such circumstances, the learned Single Judge, set aside the order of punishment imposed upon the respondent as it is not sustainable.

7. As rightly pointed out by the learned counsel for the respondent, the respondent being the Manager of the Development Department of the appellant-Corporation has given proper instructions to the persons working in the Legal Department and it is for the Legal Department to take appropriate action based on the instruction so supplied to them. Therefore, the respondent thinking that the counsel representing the appellant-Corporation would take care of the situation, has kept quiet. Further, the duty of the respondent is also only to give instructions to defend the case to the proper persons. Under such circumstances, we do not find any reason to interfere with the reasoned order passed by the learned Single Judge.

8. At this juncture, the learned counsel for the respondent submitted that the petitioner is due to retire on 30.06.2016 on attaining the age of superannuation. Therefore, he prayed that his terminal benefits be paid without any delay.

9. In view of the above submission made by the learned counsel for the respondent, it is needless to state that it is for the appellant-SIPCOT Management to set right the things immediately as the respondent is due to retire by the end of this month and pay all the retirement benefits to him without any delay.

10. In the result, this writ appeal fails and the same is dismissed with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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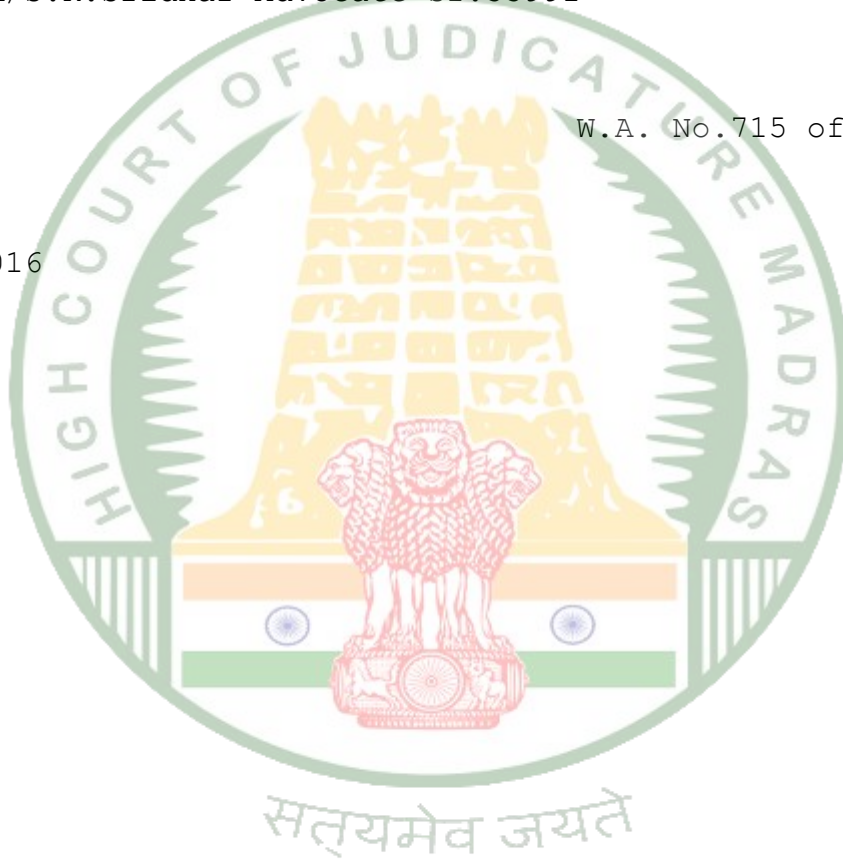
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