

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2016

CORAM

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.5768 of 2016

Mohammed Amin

... Petitioner

Vs.

1.The Corporation of Chennai,
rep. by the Commissioner,
Rippon Buildings, Chennai.

2.The Central Circle Deputy Commissioner,
Central Circle Office,
Corporation of Chennai,
No.36-B, Bulla Avenue,
Shenoy Nagar, Chennai-600 030.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent No.2 in connection with order of the respondent No.2 dated 23.12.2015 in Ma.Va.A.Na.Ka.No.A4/14064/ 2015 and quash the same and direct the second respondent to order re-instatement of service of the petitioner as Conservancy Inspector with effect from 18.04.2005 and to treat his period of suspension and absence from service as period as duty and grant all the consequential service and retirement and monetary benefits to the petitioner pursuant to the order dated 07.11.2014 of this Court acquitting the petitioner in the criminal case against him.

For Petitioner : Mr.R.Srinivas

For Respondents : Mr.Anantha Rangan

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O R D E R

This writ petition has been filed by the petitioner challenging the impugned order passed by the second respondent in Ma.Va.A.Na.Ka.No.A4/14064/2015 dated 23.12.2015, in and by which, the request of the petitioner to re-instate him in service on the basis of order of acquittal passed by this Court in CrI.R.C. No.562 of 2007 dated 07.11.2014, has been turned down.

2.Learned counsel for the petitioner would submit that although the petitioner was charge sheeted both departmentally and criminally, he was dismissed from service on the basis of the findings reached in the Departmental proceeding, by order dated 18.04.2005 passed by the first respondent. He was proceeded in C.C. No.2123 of 2001 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai for the offences under Sections 465, 468, 471, 420, 419 read with 109 IPC. Finally, the Trial Court has convicted him for the aforesaid offences and sentenced him as follows:

465 IPC	Fine of Rs.1,000/- and in default to undergo 3 months simple imprisonment
468 IPC	3 years rigorous imprisonment and fine of Rs.3,000/- and in default to undergo 3 months rigorous imprisonment
471 IPC	2 years rigorous imprisonment and fine of Rs.3,000/- and in default to undergo 3 months rigorous imprisonment
420 IPC	3 years rigorous imprisonment and fine of Rs.3,000/- and in default to undergo 3 months rigorous imprisonment
419 r/w. 109 IPC	fine of Rs.3,000/- and in default to undergo 3 months rigorous imprisonment

In view of the conviction and sentence passed against the petitioner, he was dismissed from service by order dated 18.04.2005 passed by the first respondent. Aggrieved by the conviction and sentence passed by the Trial Court, he preferred an appeal in C.A. No.138 of 2003. After the dismissal order passed in the above said Criminal Appeal No.138 of 2003 by the learned Additional District and Sessions Judge/Fast Track Court No.I, Chennai dated 27.03.2007, he preferred a revision in Criminal Revision Case No.562 of 2007 before this Court. Finally, this Court, reversing the order of conviction and sentence passed by the Trial Court, acquitted the petitioner. In this background, learned counsel appearing for the petitioner would submit that when the petitioner was placed under suspension on 25.11.1999 only on the basis of allegation that he has fabricated the records of one Narayani Ammal (Ward 123) and gained some undue advantage and the very same charges were properly gone into by this Court and finally he was acquitted by this Court, the order of dismissal from service passed by the first respondent dated 18.04.2005 is liable to be quashed and consequential direction should be given to the respondents to re-instate him in service.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

4.This Court is not able to entertain such a belated prayer. The reason is that the petitioner, who suffered an order of dismissal from service at the hands of the first respondent dated 18.04.2005, about 11 years ago, had not even chosen to challenge the correctness of the said order. When the order of dismissal passed by the disciplinary authority, complying with the principles of the preponderance of probability has become final long ago, this Court is not in a position to consider the belated prayer as sought for by the petitioner. Therefore, the writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District & Sessions Judge, Chennai (FTC)
- 2.The XI Metropolitan Magistrate, Saidapet, Chennai.
- 3.-do- Thro' The Chief Metropolitan, Magistrate, Egmore, Chennai.
- 4.The Commissioner, Corporation of Chennai, Rippon Buildings, Chennai.
- 5.The Central Circle Deputy Commissioner, Central Circle Office, Corporation of Chennai, No.36-B, Bulla Avenue, Shenoy Nagar, Chennai-600 030.

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GJ(CO)
Eu 27.4.16