

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH

W.P.No.6560 of 2016
and W.M.P.Nos.5838 and 5839 of 2016

L.Dhanapal

... Petitioner

vs.

1. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai 600 035.
 2. The Executive Engineer and
The Administrative Officer,
Tamil Nadu Housing Board,
TNUDP Division,
Coimbatore - 641 012.
 3. The Inquiry Officer,
District Revenue Officer (Land Acquisition),
Tamil Nadu Housing Board,
Chennai 600 035.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent vide Memo No.DC4/35245/2012-1, dated 01.04.2014 and quash the same and consequently direct the respondents to reinstate the petitioner as Junior Assistant in the office of the 2nd respondent with immediate effect with all backwages.

For Petitioner : Mr.P.Valliappan

For Respondents: Mr.V.Anandhamoorthy

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order of the 1st respondent vide Memo No.DC4/35245/2012-1, dated 01.04.2014 and for a consequential direction to the respondents to reinstate him as Junior Assistant in the office of the 2nd respondent with immediate effect with all backwages.

2. According to the petitioner, he joined the services of Tamil Nadu Housing Board as a Watchman in the year 1974. After several promotions, finally, he was promoted as a Junior Assistant in the year 2010 and he assumed office on 31.05.2011 in the said post in the Allotment Section of the 2nd respondent's Coimbatore Housing Unit.

3. While so, one K.Senthilkumar approached the petitioner in the year 2011 to get a Sale Deed, stating that he is an allottee of MIG 12, vacant site at Veerakeralam Village, Coimbatore and that allotment was ordered on 04.02.1998. He furnished allotment order, identification card, FMB Sketch, copy of Payment Receipt, etc. along with declaration and after due verification, the petitioner forwarded the file to the Superintendent of Housing Board. Ultimately, on 22.06.2011, Sale Deed was executed by the 2nd respondent in favour of the said K.Senthil Kumar. Later on, the respondents 1 and 2 found that the Sale Deed was fraudulently obtained by K.Senthil Kumar, by impersonation. Consequently, the petitioner was suspended on 10.12.2012. It is the case of the petitioner that his duty is only to verify the documents and within 22 days of assuming office, the file produced by K.Senthilkumar was placed before him and verified. The allotment order was issued on 16.11.1996 in favour of the said K.Senthil Kumar, which is long before the petitioner assumed office.

4. Challenging the said order of suspension, the petitioner filed a Writ Petition in W.P.No.34455 of 2012 and this Court, by an order dated 20.12.2012, disposed of the same, directing the petitioner to make a representation to the respondents within a period of two weeks and on receipt of the same, the respondents were directed to consider the petitioner's representation on merits and in accordance with law within a period of four weeks.

5. Pursuant thereto, on 01.04.2014, a Charge Memo was issued to the petitioner containing four charges alleging tampering of records, execution of false documents and collusion. The petitioner sent a reply on 22.05.2014 refuting all the charges. Thereafter, the 1st respondent, by his proceedings dated 27.08.2015 vide No.DC4/4400/2013, appointed the 3rd respondent as the Inquiry Officer. The petitioner sent a representation to the 3rd respondent on 08.01.2016 explaining the falsity of the charges and prayed for dropping of the charges and reinstatement, highlighting the fact that he is due to retire on 30.04.2016. Finding no response, the petitioner has approached this Court again by way of the present Writ Petition.

6. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the petitioner was superannuated on 30.04.2016 and contended that the respondents ought to have revoked the order of suspension and reinstated the petitioner. He prayed that a direction may be given to the respondents to complete the enquiry within a stipulated time.

7. In reply, learned Standing Counsel appearing for the respondents/Tamil Nadu Housing Board, by filing a detailed counter affidavit of the respondents, submitted that when the said Senthil Kumar approached this Court by filing W.P.No.20598 of 2012 with a prayer to execute the registered Sale Deed in his name in respect of Plot No.MIG-12, this Court directed the respondents therein to consider his representation and pass appropriate orders within eight weeks. Pursuant thereto, it was found that the Sale Deed was issued to the bogus allottee and that the said Senthil Kumar had gone to the extent of impersonating someone in the name of the allottee, by creating false documents and tampering the original documents. Since the petitioner herein is one among the four persons responsible for the said lapse, by way of an order dated 10.12.2012, he was placed under suspension. Thereafter, based on the order of this Court, dated 20.12.2012, passed in W.P.No.34455 of 2012, the competent authority carefully examined the petitioner's representation and framed four grave charges against him stating that his representation could not be considered, as he is continuing in suspension.

8. It is his further submission that the Executive Engineer & Administrative Officer, Coimbatore Housing Unit was directed by the Tamil Nadu Housing Board to file a criminal case against the petitioner for the lapses stated in the Charge Memo, dated 01.04.2014 and a criminal case was registered against the petitioner and 12 other officials in Crime No.2 of 2013 under Sections 120(b), 409 and 420 I.P.C. and F.I.R. was registered by the City Crime Branch, Coimbatore. Thereafter, two charges were framed against the petitioner vide proceedings of the Board, dated 05.02.2015. According to the learned Standing Counsel, the petitioner's request could not be considered due to pendency of criminal case against him.

9. In view of the above submissions and considering the facts and circumstances of the case, this Court is of the view that the Charge Memo dated 01.04.2014 against the petitioner cannot be quashed due to the pendency of the criminal case against him. However, without expressing any opinion on the merits of the case, the respondents are directed to complete the enquiry in respect of the petitioner and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction.
No costs. Consequently, connected W.M.P.Nos.5838 and 5839 of
2016 are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To:

1. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai 600 035.
2. The Executive Engineer and
The Administrative Officer,
Tamil Nadu Housing Board,
TNUDP Division,
Coimbatore - 641 012.
3. The Inquiry Officer,
District Revenue Officer (Land Acquisition),
Tamil Nadu Housing Board,
Chennai 600 035.

+1cc to Mr.P.Valliappan, Advocate Sr.64754
+1cc to Mr.V.Anandhamurthy, Advocate Sr.64676

सत्यमेव जयते

W.P.No.6560 of 2016

ala[co]
srg 16/11/2016

WEB COPY