

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1021 of 2017
and

C.M.P.Nos.14377 and 20864 of 2017

- 1 The State of Tamilnadu
Rep. by its Principal Secretary to
Government Highways and Minor Ports (HR.2)
Department Secretariat Chennai-9.
- 2 The Director General
(Highways) O/o. The Director General of
Highways Chepauk Chennai-5 Formerly known
as Chief Engineer (General)
Highways and Rural Works Department
Chepauk Chennai-5.

Appellants

Versus

M.Govindarajan

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.8.2016 passed in W.P.No.24123 of 2015 on the file of this court.

W.P.No.24123 of 2015:

Writ petition filed under Article 226 of the constitution of India for a Writ of Certiorarified Mandamus to call for the records To call for the records connected in G.O.(D).No.86 Highways and Minor Ports (HR2) Department dated 10.04.2015 passed by the 1st respondent and charge memo No. 8775/Confidential-3/2001-4 dated 20.09.2001 passed by the 2nd respondent and quash the same as it is against the High Court Order and consequently direct the respondents to promote the petitioner as Assistant Divisional Engineer and Divisional Engineer on par with juniors with all benefits.

For appellants : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For respondent : Mr.S. Prabhakaran
for Mr.G. Elanchezhiyan

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in allowing the writ petition which was filed for quashing the impugned order of punishment and the charge memo and thereby granting all the consequential benefits including promotion on par with his juniors.

3. On perusal of the materials available on record, it appears that the writ petitioner was appointed as Assistant Engineer in the Highways Department and promoted as Assistant Divisional Engineer on 18.2.2011. However, the events that had taken place in the meanwhile play a vital role. The writ petitioner was proceeded departmentally for the allegation that he had repeated the names of some daily wage employees contained in one list verbatim in two other lists while preparing such lists for three road projects while he was working as Assistant Engineer during the period 1995-1996. The ordeal started by issuance of charge memo on 20.9.2001. Subsequently, enquiry was initiated and there was some delay on the part of the Department in communicating the enquiry report and passing any orders on receipt of explanation from the writ petitioner for the enquiry report and therefore, the writ petitioner was constrained to file a writ petition in W.P.No.49104 of 2006 and pending the said writ petition, the order of punishment was passed by the authority imposing a punishment of stoppage of increment for two years with cumulative effect. The statutory appeal preferred by the writ petitioner immediately also came to be rejected by the appellate authority after a lapse of six years on 27.3.2012. Challenging the same, the employee had filed another writ petition in W.P.No.33107 of 2012 wherein the matter was remanded to the authorities for re-consideration on the ground that the enquiry was not conducted in a proper manner, by fixing a stipulated period for such exercise. Even after such a direction, there was no speedy action on the part of the Department much less strict compliance of the time limit fixed by a learned Single Judge as stated above. Finding that due to the exorbitant delay on the part of the Department, the writ petitioner is deprived of his promotion and his juniors are holding higher posts, he had filed the present writ petition.

4. The learned Single Judge, after analysing the entire factual aspects and the delay on the part of the appellants, had allowed the writ petition. The operative portion of the order passed by the learned Single Judge is as under:-

"... the charges levelled against the petitioner are curable. Further, by reason of the delinquency committed by the petitioner, there is no revenue or financial loss caused to exchequer. In such circumstances, this court is of the opinion that continuing the disciplinary proceedings against the petitioner will be a wasteful exercise involving time and money. Further, the petitioner has already been frustrated by reason of the pendency of disciplinary proceedings due to which his juniors have marched him over. This is more so that the petitioner was always ready and willing to extend his cooperation for completion of the departmental proceedings. However, the respondents have not taken any act to conclude the departmental proceedings swiftly inspite of a direction having been given by this court. In such circumstances, this court is of the view that the petitioner is entitled to succeed in this writ petition.

16. In the result, the order passed in G.O.(D) No.86 Highways and Minor Ports (HR2) Department dated 10.4.2015 on the file of the first respondent and the charge memo dated 20.9.2001 passed by the second respondent are quashed. The writ petition is allowed as prayed for. No costs. It is needless to mention that the petitioner is entitled for all consequential benefits, including promotion on par with his juniors."

5. On perusal of the entire materials available on record, we could not find any fault with the views expressed by the learned Single Judge to the effect that the charges levelled against the writ petitioner were curable, no revenue loss could have been sustained by the exchequer and there were intermittent delay on the part of the Department though the writ petitioner was ready and willing to co-operate for completion of the proceedings, especially when a learned Single Judge has directed the authorities to complete the proceedings in a specific time limit. Contradicting such views, the appellants have not produced any materials to substantiate their writ appeal except raising a contention that the delay was only an administrative one. Therefore, we do not find any reason to interfere with the finding of the learned Single Judge.

6. In the result, the writ appeal filed by the State is dismissed. No costs. Consequently, C.M.P.No.14377 of 2017 is also dismissed and C.M.P.No.20864 of 2017 is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ssk.

To:

- 1 The Principal Secretary to
Government Highways and Minor Ports (HR.2)
Department Secretariat Chennai-9.
- 2 The Director General
(Highways) O/o. The Director General of
Highways Chepauk Chennai-5 Formerly known
as Chief Engineer (General)
Highways and Rural Works Department
Chepauk
Chennai-5.

+1 CC to Mr.G. Elanchezhian, advocate sr 88959.

+1 CC to Govt. Pleader sr 89423.

सत्यमेव जयते

W.A.No.1021 of 2017

GMR(CO)
SP(24/01/2018)

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