

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.4085 of 2017 and WMP No.4234 of 2017 and
W.P.No.11914 of 2017 and WMP No.26411 of 2017

R.Subramanian
N.Annadurai

.. Petitioner in W.P.No.4085 of 2017
.. Petitioner in W.P.No.11914 of 2017

-vs-

1. Government of Tamilnadu
rep. by its Principal Secretary to Govt.,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9
2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005
3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001
- 4.M.Sundararajan
No.167, Sambandam Road (West)
R.S.Puram, Coimbatore 641 002
.. Respondents in W.P.No.4085 of 2017
and
WP.11914/2017
- 5.R.Selvaraj
Corporation quarters,
Selier Street, Town Hall,
Coimbatore 641 001. .. 5th Respondent in W.P.No.11914 of
2017

W.P.No.4085 of 2017

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 3 to place the 4th respondent under suspension for the grave charges contemplated against him, as recommended by the 2nd respondent in letter dated 18.08.2016 to initiate disciplinary proceedings and consequently direct the respondents 1 to 3 to consider the representation dated 15.06.2016, 04.07.2016, 05.08.2016 and 06.08.2016 and 20.09.2016 submitted by the petitioner in consonance with the G.O.Ms.No.99,

Personnel and Administrative Reforms Department dated 21.09.2015 and to follow strictly the time frame stipulated by the Government as stated in disciplinary proceeding Rules in their letter no.1118(N.87) P&AR (Per-N0 Department dated 22.12.1987.

W.P.No.11914 of 2017

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 1st respondent to initiate appropriate enquiry in view of the recommendations made in reports dated 08.08.2016 and 18.08.2016 filed by the 3rd respondent and 2nd respondent herein. [Prayer amended vide order passed by TRJ in WMP No.26411 of 2017 in W.P.No.11914 of 2017 dated 21.11.2017]

For Petitioners : : Mr.R.Dhanaram
in both WPS

For Respondents : : Mr.V.Jayaprakash Narayanan for R1 and R2
in both WPS Special Government Pleader

Mr.K.Magesh for R3

Mr.T.Ranganathan for R4

C O M M O N O R D E R

The Writ Petition No.11914 of 2017 has been filed by the petitioner, namely, Annadurai. Earlier, he has sought for a Writ of Certiorarified Mandamus to call for the records from the 3rd respondent, viz., Coimbatore City Municipal Corporation, Coimbatore in Na.Ka.No.522/90/E9 dated 07.06.1991 and to quash the same in so far it relates to the 4th respondent, R.Sundararajan. However, during the pendency of the Writ Petition, taking note that no order has been passed on the pending enquiry, the petitioner has come forward with an application, i.e., WMP No.26411 of 2017 to amend the prayer, viz., to issue a Writ of Mandamus directing the 1st respondent to initiate appropriate enquiry in view of the recommendations made in reports dated 08.08.2016 and 18.08.2016 filed by 3rd and 2nd respondents, instead of issuance of Writ of Certiorarified Mandamus.

2. Learned respective counsels appearing for the respondents submitted that there is no serious objection to amend the prayer, however, they submitted that this Court has already passed an order on 17.10.2016 in W.P.No.36004 of 2016 and the relevant portion is extracted as under:-

"4. The present Writ Petition has been filed seeking to direct the respondents not to take any final decision on the petition submitted by one Thiru.R.Subramaniam, making allegations against the petitioner, without affording any fair and reasonable opportunity to the petitioner. This Court is not inclined to give such a positive direction to the

respondents. However, in the interest of natural justice, the respondents are directed to get explanation from the petitioner on the complaint given by the said Subramanian, before taking any final decision."

3. Since there is no serious objection on the side of the respondents to amend the prayer in W.P.No.11914 of 2017, the amendment petition filed by the petitioner, viz., WMP No.26411 of 2017 in W.P.No.11914 of 2017 is ordered.

4. Learned Special Government Pleader appearing for the respondents 1 to 3 further submitted that enquiry officer has not submitted a report, therefore, sufficient time may be given to the enquiry officer to submit his report, thereafter, final order may be passed by the 1st respondent.

5. Heard the learned counsel for the petitioner and the respective learned counsel for the respondents and perused the counter affidavits filed by them.

6. A perusal of the counter affidavit filed by the 3rd respondent clearly shows that a detailed report to take necessary action against 4th respondent was already sent to the 2nd respondent vide letter No.1396/2016/MC2 dated 08.08.2016 and the issue is under consideration by the 1st respondent. Moreover, a proposal has also been sent by the 3rd respondent in Lr.ROC No.3134/2015/MC2 dated 27.05.2015 requesting the 1st respondent to set aside the promotion order in G.O.(D) No.286, Municipal Administration and water Supply Department dated 14.07.2006 and in G.O.(D) No.552, Municipal Administration and Water Supply Department dated 29.10.2010 with a further request to revert 4th respondent from the post of Assistant Commissioner to his original post of Sanitary Inspector from 14.07.2006. The said proposal of the 3rd respondent was forwarded to the Government by 2nd respondent vide letter no.13905/20145/MCA1 dated 10.06.2015 and the order of the Government is awaited.

7. Taking note of the arguments advanced by the learned respective counsels and the counter affidavit filed by the 3rd respondent, this Court, hereby directs the Enquiry Officer, Mr.Rajaram, I.A.S., to complete the enquiry and submit a report to the 1st respondent within a period of 12 weeks from the date of receipt of copy of this order. Further, in view of the recommendations made in reports dated 08.08.2016 and 18.08.2016 filed by the 3rd and 2nd respondents and along with the report to be submitted by the enquiry officer, 1st respondent, shall pass a final order on merits and in accordance with law, within a period of four weeks thereafter.

With the above direction, the Writ Petition No.11914 of 2017 is disposed of. In view of the order passed in W.P.No.11914 of 2017, there is no order required in W.P.No.4082

of 2017. Consequently, W.P.No.4082 of 2017 is closed and connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ssd

To

1. Government of Tamilnadu
rep. by its Principal Secretary to Govt.,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9
2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005
3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001

+1cc to Mr.S.Arulandu, Advocate SR.No.83034
+1cc to Mr.T.Ranganathan, Advocate SR.No.83636
+1cc to Government Pleader SR.No.82856
+1cc to Mr.K.Magesh, Advocate SR.No.86441(06/12/2017)

W.P.Nos.4085 of 2017 and WMP No.4234 of 2017 and
W.P.No.11914 of 2017 and WMP No.26411 of 2017

PK(CO)
GN(30/11/2017)

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