

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21055 of 2014 and

MP.Nos. 2 & 3 of 2014

K.Venkatesan

.. petitioner

Versus

1.The State of Tamil Nadu
Represented by its Secretary
Labour and Employment Department
Fort St.George,
Chennai-600 009.

2.Commissioner of Labour
DMS Compound
Teynampet, Chennai-600 018.

3.The Secretary
The Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam Nedunchalai
Nungambakkam, Chennai-600 034.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in GO(D) No.336 Labour and Employment (E1) Department dated 30.07.2014 and the consequential order in GO(Rt)No.339 Labour and Employment (E1) Department dated 31.07.2014, quash the same and consequently, direct the respondents to permit the petitioner to retire from service with effect from 31.07.2014 with all retirement and terminal benefits.

For Petitioner : Mr.Menon Karthik

For Respondents: Mr.T.S.Murthy

Additional Advocate General-V

Assisted by Mr.P.Chinadurai

Mr.K.Thangapandi,

Government Advocate for R1 & R2

O R D E R

The order of suspension passed against the petitioner in the eve of his retirement and the consequent order of retention passed under Fundamental Rules 56(1) (c) of the Rules are under challenge in this writ petition.

2. The petitioner has filed WP No. 20155 of 2014 challenging the order of suspension passed against him and it was dismissed by this Court on 15.11.2017. Further, as the writ petitioner was due to retire from service, an order of suspension and retention of his service are certainly required under the Rules to enable the department to proceed against him. It is needless to mention that after conclusion of the disciplinary proceedings, the order of suspension and retention to be re-considered by the respondents.

3. In this view of the matter, the order of suspension and retention of service passed against the petitioner deserves no further consideration, especially in view of the order passed in WP No. 20155 of 2014 filed by the petitioner challenging the charge memo issued to him. At the same time, this Court is of the view that now the petitioner is not allowed to retire from service and his service is also retained, the conclusion of the disciplinary proceedings will take a longer time and it will cause prejudice to the petitioner. Therefore, this Court is of the opinion that a time limit can be fixed for finalising of the disciplinary proceedings. Accordingly, the respondents are directed to complete the enquiry proceedings in all respects as per the Rules, by providing opportunity to the writ petitioner and send the files to the appointing authority / disciplinary authority for passing final orders in the disciplinary proceedings, within a period of six months from the date of the receipt of a copy of this order. It is further clarified that the writ petitioner shall also co-operate for the effective completion of the disciplinary proceedings in all respects. In the event of non-cooperation on the part of the petitioner, it is for the competent authority to record the same in the enquiry proceedings itself.

4. Accordingly, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk
To

1.The Secretary
Labour and Employment Department
Fort St.George, Chennai-600 009.

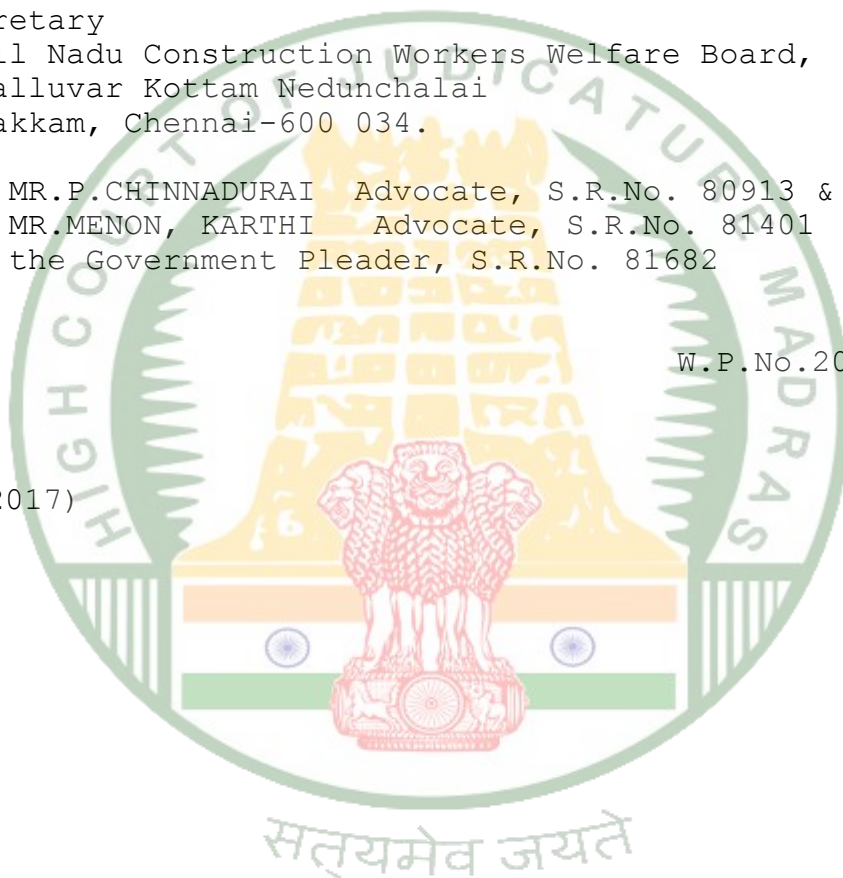
2.Commissioner of Labour
DMS Compound
Teynampet, Chennai-600 018.

3.The Secretary
The Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam Nedunchalai
Nungambakkam, Chennai-600 034.

+2cc to MR.P.CHINNADURAI Advocate, S.R.No. 80913 & 80914
+2cc to MR.MENON, KARTHI Advocate, S.R.No. 81401
+1cc to the Government Pleader, S.R.No. 81682

W.P.No.20155 of 2014

AP(CO)
TR(14/12/2017)



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