

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.475 of 2017

The Chairman
Tamil Nadu Pollution Control Board
76, Mount Salai
Guindy
Chennai 600 032. ... Appellant

Vs.

1. Dr.M.Senthil Kumar
2. The Principal Secretary to Government
Personnel and Administrative Reforms (N)
Department
Secretariat
Chennai 600 009. ... Respondents

Appeal under Clause 15 of the Letters Patent filed against the order dated 03.10.2016 made in W.P.No.32773 of 2016.

W.P.No.32773 of 2016:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 08.08.2016 vide Proc.No.TNPCB/ Per./Cs/ 11657/2015-1 placing reliance on the Government letter dated 26.04.2016 vide bearing ref.No.(Ms) No.43/N/2015-3 P&AR Department which has no legal sanctity in terms of Art. 166(2) of the constitutions of India and contrary to law laid down in judgement of the Hon'ble Apex Court dated 16.02.2015 in Ajai Kumar Choudhry Vs. Union of India in C.A.No.1912/2015 and to quash the same with consequential direction to the second respondent to re-instate the petitioner with immediate effect into the service of the respondent in any place with all the attendant benefits right from the date of suspension.

For Appellant	:	Mrs.Rita Chandrasekar
For Respondent-1	:	Mr.P.Haribabu
For Respondent-2	:	Mr.P.S.Sivashanmugasundaram Spl. Govt. Pleader

J U D G M E N T

(Delivered by Huluvadi G.Ramesh,J)

The writ appeal has been filed against the order dated 03.10.2016 made in W.P.No.32773 of 2016.

2. The first respondent was suspended from service pending enquiry. When it was challenged by the first respondent, this Court directed the appellant Board to consider the representation of the first respondent for revoking his suspension, in the light of the Apex Court judgment. However, the appellant Board rejected the representation. Thereafter, challenging the proceedings of the Superintendent of Police (Western Range) seeking sanction of Directorate of Vigilance and Anti-Corruption, to prosecute the first respondent, the first respondent filed the writ petition in W.P.No.32773 of 2016. This Court, by the order impugned in this appeal, holding that no reasoned order for extension of suspension in respect of the first respondent has been passed, quashed the proceedings of the Superintendent of Police and directed the appellant Board to reinstate the first respondent in any non-sensitive post at a far away place forthwith. Aggrieved by the said order, the Tamil Nadu Pollution Control Board has come up with this appeal.

3. According to the appellant Board, the first respondent is holding a sensitive post and therefore, he cannot be posted in non-sensitive post and that there is no non-sensitive post in order to accommodate the first respondent.

4. The first respondent relied upon the judgment rendered by this Court in W.A.No.1511 of 2016 dated 29.11.2016 and seeks intervention of this Court to uphold the order of the learned single Judge.

5. Indisputably, we have already held in W.A.No.1511 of 2016 dated 29.11.2016 that pendency of criminal proceedings will not be an impediment/bar to revoke the suspension. Further, the appellant Board cannot prolong the period of suspension on the ground of pendency of disciplinary proceedings and therefore, the learned single Judge is right in quashing the impugned order. Accordingly, we do not see any reason to interfere with the order of the learned single Judge.

6. In view of the above, we direct the appellant Board to re-consider the case of the first respondent and take a decision in accordance with law to post him in a non-sensitive post, within a period of three months. The first respondent is directed to extend his cooperation for the early completion of

the enquiry/disciplinary proceedings pending before the first appellant.

The writ appeal is disposed of accordingly. There shall be no order as to costs. Consequently, CMP No.7202 of 2017 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl

To

1.The Principal Secretary to Government
Personnel and Administrative Reforms (N)
Department
Secretariat
Chennai 600 009.

2.The Chairman
Tamil Nadu Pollution Control Board
76, Mount Salai
Guindy
Chennai 600 032.

+1cc to Mrs.Rita Chandrasekar, Advocate Sr. 41103
+1cc to Mr.P.Haribabu, Advocate Sr. 41376
+1cc to the Government Pleader, High Court, Madras
Sr. 41437

W.A.No.475 of 2017

MP (CO)
VR(21/06/2017)

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