

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.05.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.13134 of 2017 &
WMP No.14117 of 2017

N.Selvatharasu

[PETITIONER]

Vs

The Superintending Engineer
CEDC/South ii/TANGEDCO
K.K.Nagar, Chennai 600 078.

[RESPONDENT]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the records on the file of the respondent relating to the order in Memo No.379/0818/Adm.1/A1/F.DV&AC/SCN/2006-4 dated 19.4.2017 to quash the same and issue consequential directions to the respondent to permit the petitioner to retire from service on 30.06.2014 with all benefits and to initiate action against the petitioner under Pension Rules, subject to the outcome of the Judgment in Criminal Appeal No.853 of 2016 on the file of this Court.

For Petitioner : Mr.Kirubanandam
for Mr.M.Sasi Kumar

For Respondent : Mr.R.Varalakshmi
Standing Counsel

O R D E R

Heard Mr.Kirubanandam, learned counsel appearing for the petitioner and Mrs.R.Varalakshmi, learned standing counsel accepting notice for the respondent. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.In this Writ Petition, the petitioner seeks for quashing the order passed by the respondent in Memo No.379/0818/Adm.1/A1/F.DV7AC/SCN/2006-4 dated 19.4.2017 and for issuance of consequential directions to the respondent to permit

him to retire from service on 30.06.2014, with all benefits and to proceed as per Pension Rules, subject to the outcome of the Judgment in Criminal Appeal No.853 of 2016 on the file of this Court.

3.In the affidavit filed in support of this Writ Petition, it has been stated that the petitioner who was working as Junior Engineer, Grade I, was placed under suspension, in view of the implication of a criminal case registered against him in Cr.No.6/AC/2006 on 11.08.2006, by the Vigilance and Anti Corruption, Special Unit III, Chennai, and therefore, he was not permitted to retire on attaining the age of superannuation on 30.06.2014 AN.

4.It is seen that the said criminal case ended in conviction, by the learned Special Judge, Chief Judicial Magistrate, Chengalpattu in S.C.No.6 of 2007 and as against the order of conviction, the petitioner preferred a Criminal Appeal in CrI.Appeal No.853 of 2016, before this Court. This Court by an order dated 23.12.2016, suspended the substantive sentence of imprisonment alone and released the petitioner on bail and the Appeal is still pending.

5.It is submitted by the learned counsel for the petitioner that in the mean time, the respondent by a memo dated 19.04.2017, (was served on the petitioner on 15.5.2017), informed the petitioner, about their proposal to impose penalty of 'dismissal from service', in view of the order of conviction in the case in Cr.No.6/AC/2006 and called upon the petitioner to explain as to why the penalty should not be imposed on him.

6.The learned counsel for the petitioner contended that since the respondent has prejudged the punishment of dismissal from service, without hearing the petitioner, he has come forward with this Writ Petition, seeking for the aforementioned relief.

7.As directed by communication dated 19.04.2017, which is impugned in this Writ Petition, as against the proposed penalty, the petitioner has to file his reply. Admittedly, till date, the petitioner has not submitted any reply/representation.

8.At this juncture, the learned counsel appearing for the petitioner seeks indulgence of this Court for granting sufficient time to the petitioner, for filing reply.

9.Accordingly, the petitioner is directed file his reply/representation to the communication dated 19.04.2017, which is impugned in this Writ Petition, within a period of four weeks from the date of receipt of a copy of this order and on receipt

of such reply/representation, the respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible, preferably within a period of four weeks thereafter.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Superintending Engineer,
CEDC/South ii/TANGEDCO
K.K.Nagar, Chennai 600 078.

+1cc to Mr.M.Sasikumar, Advocate Sr.38009
+1cc to Mrs.R.Varalakshmi, Advocate Sr.37960

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srg 08/06/2017



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