

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P.No.30515 of 2003

V.Adharathiah

... Petitioner

Vs.

1.The Government of India,
Rep. by the Secretary,
Ministry of Shipping,
Transport Bhavan, Port Wing,
No.1, Parliament Street,
New Delhi-110 001.

2.The Chairman,
Chennai Port Trust,
Chennai-1.

3.The Traffic Manager,
Chennai Port Trust,
Chennai-1.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for all relevant records relating to the impugned order of dismissal issued in proceedings No.P2/400/97/TP dated 04.07.1998 along with proceeding dated 08.05.2003 in No.P2/194/2003/T[P] passed by the Traffic Manager, Chennai Port Trust, Chennai-1, the 3rd respondent herein and quash the same as arbitrary, unreasonable, improper, illegal, against the rules and regulations of the respondents, violating the principles of Natural Justice and Fundamental Rights guaranteed under the Constitution of India and thereby direct the respondents to reinstate the petitioner into service as Mazdoor under the office of the 2nd respondent herein with continuity of service and backwages, with all consequential and other monetary benefits.

For Petitioner : Mr.S.Srinivasan

For Respondents : Mr.Madanagopal Rao,
Senior Central Government
Standing Counsel for R1

Mr.Sathya Narayana Prasad
for R2 and R3

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of dismissal issued in proceedings No.P2/400/97/TP dated 04.07.1998 along with proceeding dated 08.05.2003 in No.P2/194/2003/T[P] passed by the 3rd respondent, quash the same and consequently, direct the 2nd respondent to reinstate the petitioner with continuity of service, back wages, and all other consequential and monetary benefits.

2.I have heard Mr.S.Srinivasan, learned counsel appearing for the petitioner, Mr.Madana Gopal Rao, learned Senior Central Government Standing Counsel for the 1st respondent and Mr.Sathya Narayana Prasad, learned Standing counsel appearing for the 2nd and 3rd respondents.

3.Mr.S.Srinivasan, learned counsel appearing for the petitioner submits that though the petitioner sought for the prayer of Writ of Certiorarified Mandamus to quash the order impugned, whereby the petitioner has been dismissed from service, he would submit that the petitioner would be satisfied, if a direction is given to the 2nd respondent to decide the appeal filed by him against the dismissal, on merits and in accordance with law within a time frame stipulated by this Court.

4.I have heard Mr.Madana Gopal Rao, learned Senior Central Government Standing Counsel appearing for the 1st respondent, in this regard.

5.The learned counsel appearing for the petitioner submits that because of the reason of alleged unauthorised absent, the petitioner has been inflicted with the punishment of dismissal from service, however, the defence taken by the petitioner by producing necessary Medical Certificates have not been properly considered by the Enquiry Officer without which the disciplinary authority namely, the 3rd respondent had accepted the report of the Enquiry Officer and inflicted maximum punishment of dismissal from service. He would further submit that he has raised a substantial ground on such order passed by the 3rd respondent in his appeal filed before the 2nd respondent, who is the appellate authority before whom the appeal is still pending consideration sofar.

6.Considering the said submissions made by the learned counsel appearing for the petitioner and on hearing Mr.Madana Gopal Rao, learned Senior Central Government Standing Counsel appearing for the 1st respondent as well as Mr.Sathya Narayana

Prasad, learned Standing counsel appearing for the 2nd and 3rd respondents, I am inclined to pass the following orders:

(1) The appeal filed by the petitioner on 06.06.2003 to the 2nd respondent/Appellate Authority against the order of punishment made by the 3rd respondent, vide his order dated 04.07.1998, be decided on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order.

(2) Before deciding the appeal of the petitioner, the appellate authority/2nd respondent shall give an opportunity to be heard to the petitioner and in this regard, a communication to be made by the 2nd respondent to the petitioner fixing the date for such personal hearing and on receipt of such communication from the 2nd respondent office, the petitioner shall appear before the 2nd respondent or his authorised Officer where the petitioner shall be at liberty to put forth his case including the grounds he urges against the impugned order of dismissal and on hearing the petitioner, a final decision can be taken by the 2nd respondent in the appeal and accordingly, the decision can be communicated to the petitioner.

With these directions, this Writ Petition is disposed of.
No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mps

To

1. The Secretary to the Government of India,
Ministry of Shipping,
Transport Bhavan, Port Wing,
No.1, Parliament Street,
New Delhi-110 001.

2. The Chairman,
Chennai Port Trust,
Chennai-1.

3. The Traffic Manager,
Chennai Port Trust,
Chennai-1.

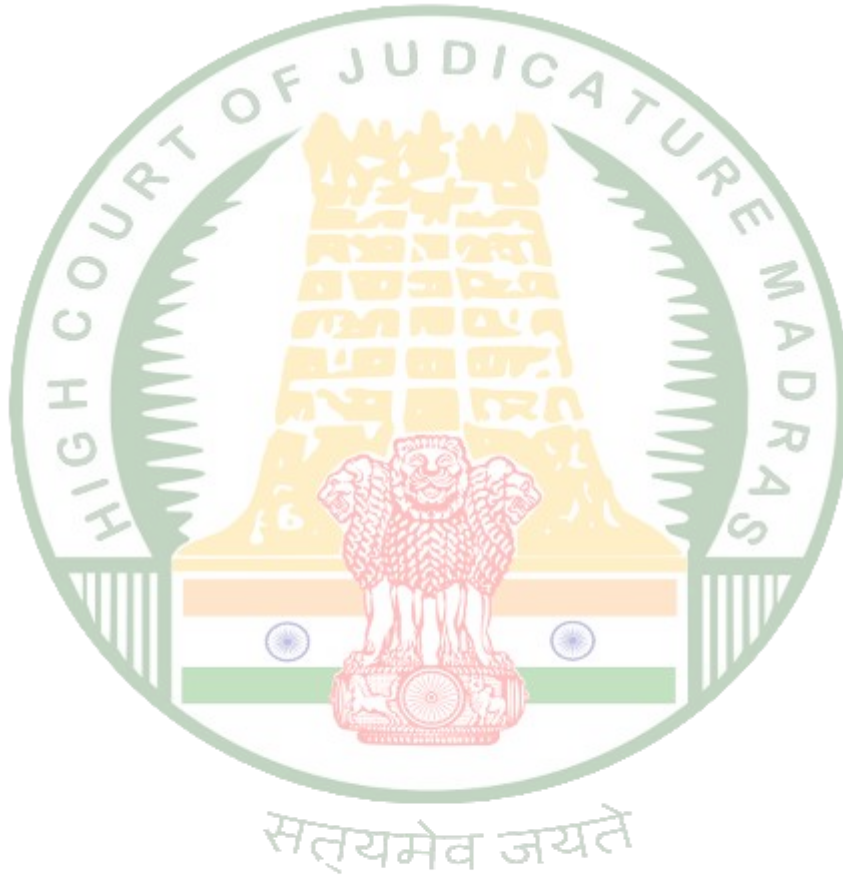
+1cc to Mr.S.Srinivasan, Advocate, S.R.No.87010

+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.86764

+1cc to Mr.J.Sathya Narayana Prasad, Advocate, S.R.No.87172

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RRK(11/01/2018)



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