

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.494 of 2016 & 984 of 2015
& M.P.No.1 of 2015
&C.M.P.No.6807 of 2016

W.A.No.494 of 2016

The Commissioner of Municipal Administration,
O/o. The Commissioner of Municipal Administration,
Chepauk,
Chennai.Appellant

Vs

1.D.Umapathi
2.The Commissioner,
Tambaram Municipality,
Tambaram,
Chennai 600 045.Respondents

W.A.No.984 of 2015
The Commissioner,
Tambaram Municipality,
TambaramAppellant

Vs.

1.D.Umapathi
2.The Commissioner of Municipal
Administration, Chepauk,
Chepauk, Chennai - 600 005.Respondents

Common Prayer:- Writ Appeals filed under clause 15 of Letters
Patent, against the order made in W.P.No.18196 of 2012 dated
08.04.2015.

WP.No.18196 of 2012: Petition filed under section 226 of the
Constitution of India praying this Hon'ble court to issue a Writ
of Mandamus directing the first respondent to dispose of the
petitioner's representation dated 02.05.2012 and consequently
directly the 2nd respondent to pass final order in the pending
disciplinary proceedings in respect of the Petitioner.

In W.A.No.494 of 2016

For Appellant : Mrs.A.Srijayanthi
Special Government Pleader

For Respondents : M/s.D.Bharathy for R1
Mr.P.Srinivas for R2

In W.A.No.984 of 2015

For Appellant : Mr.P.Srinivas

For Respondents: M/s.D.Bharathy for R1
Ms.A.Srijayanthi for R2
Special Government Pleader

C O M M O N J U D G M E N T

K.K. SASIDHARAN, J.

The first respondent in the respective appeals filed a Writ Petition in W.P.No.18196 of 2012 for issuance of a Writ of Mandamus, directing the Commissioner, Tambaram Municipality to pass final orders in the pending disciplinary proceedings by considering the representation submitted by him on 2 May 2012. The learned Single Judge, without fixing the outer time limit for disposal of the disciplinary proceedings, quashed the very charge memo on the ground that it was issued after a considerable period. Feeling aggrieved by the order dated 8 April, 2015, two intra court appeals are before us; one at the instance of the Commissioner for Municipal Administration and another by the Commissioner, Tambaram Municipality.

2. We have heard the learned Special Government Pleader on behalf of the appellant in W.A.No.494 of 2016, the learned standing counsel for the appellant in W.A.No.984 of 2015 and the learned counsel for the first respondent in the respective appeals.

3. The appellant in W.A.No.984 of 2015 initiated disciplinary proceedings against the first respondent on the ground of unauthorized absence. The charge memo under Regulation 8(1) of the Tamilnadu Municipal Services (Discipline and Appeal) Regulations, 1970 (herein after referred to as 'the Regulations') was issued on 14 December 1994. The first respondent submitted his explanation on 24 March 1995 and 10 April 1995. Thereafter, a questionnaire was sent to him on the ground that explanation was not submitted. It was followed by a

fresh charge memo dated 15 March 2012 under Regulation 8 (2) of the Regulations.

4. The first respondent, long after the issuance of the second charge memo, submitted a representation on 2 May 2012, for disposal of the disciplinary proceedings. Since action was not taken to conclude the disciplinary proceedings, the first respondent filed a Writ Petition in W.P.No.18196 of 2012. The only prayer made by the first respondent was a direction to the Commissioner to dispose of the disciplinary proceedings.

5. The learned Single Judge, notwithstanding the specific prayer made by the first respondent, quashed the very charge memo and exonerated him from the charges. We are of the considered view that such a course is not permissible given the nature of relief claimed in the writ petition.

6. The charge memo issued by the Commissioner, Tambaram Municipality was not challenged in W.P.No.18196 of 2012. The Writ Petition was for a simple mandamus to direct the Commissioner to dispose of the proceedings and pass a final order. Such being the prayer, the learned Single Judge was not correct in quashing the charge memo. We are therefore of the view that the impugned order is liable to be set aside.

7. The order dated 8 April 2015 is set aside. We direct the Commissioner, Tambaram Municipality to conclude the disciplinary proceedings as expeditiously as possible and in any case on or before 31 March 2018.

8. The intra court appeals are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsa/svki

To

1.The Commissioner,
Tambaram Municipality,
Tambaram,
Chennai 600 045.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

+1 cc to Government Pleader sr 85861

W.A Nos.494 of 2016 &
984 of 2015

sv(co)
aa26/12/2017



WEB COPY