

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1512 of 2015 and M.P.No.1 of 2015

The Commissioner,  
Coimbatore City Municipal Corporation,  
Coimbatore-1. ... Appellant/Respondent

Vs.

Tmt.S.Premaleela,  
Junior Assistant,  
(Under Suspension),  
Coimbatore City Municipal Corporation,  
Coimbatore-1. .... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against  
the order dated 01.07.2015 passed by this Court in Writ Petition  
No.19153 of 2015.

WP.No.19153/2015:Writ petition filed under Article 226 of the  
Constitution of India to issue a writ of mandamus to direct the  
Respondent to release the General Provident Fund Special  
Provident and Encashment of Earned Leave / Private Affairs at  
her credit as on the date of superannuation on 30.9.2009 within  
a reasonable period as may be fixed by this Honourable Court.

For Appellant : R.Sivakumar  
Standing Counsel

For Respondent : Mr.T.Ranganathan

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The learned Single Judge even without issuing notice to the  
appellant, allowed the writ petition filed by the respondent and  
directed the Coimbatore City Municipal Corporation to pay the  
General Provident Fund and all other benefits to her

notwithstanding the pendency of the disciplinary proceedings and the order of suspension. The order is under challenge at the instance of the Local Authority.

2.We have heard the learned Standing Counsel for the appellant. We have also heard the learned counsel for the respondent.

3.The respondent was suspended from service pending disciplinary proceedings initiated against her. The disciplinary proceedings were initiated on account of a serious misconduct. The respondent was not permitted to retire from service on account of the pendency of the disciplinary proceedings. The respondent adopted a novel device of filing a writ petition for a Mandamus for payment of General Provident Fund and other benefits notwithstanding the pendency of the disciplinary proceedings initiated against her.

4.The learned Single Judge even without issuing notice to the appellant, issued a Mandamus, directing the Corporation to pay all the service benefits to the respondent.

5.This is not a case where there was no name of the respondent shown in the writ petition filed by the employee in W.P.No.19153 of 2015. The Commissioner, Coimbatore City Municipal Corporation was a very much party to the writ petition. Nothing prevented the learned Single Judge from issuing notice to the appellant herein and thereafter, pass an order on merits. There is no question of issuing a Mandamus without even hearing the opposite party. We are therefore, of the view that the order passed by the learned Single Judge is liable to be set aside.

6.The order dated 1 July 2015 is set aside. The writ petition in W.P.No.19153 of 2015 is restored to file. The Registry is directed to post the writ petition for hearing before the learned Single Judge as per roster.

7.The intra court appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

abr/svki

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To  
The Commissioner,  
Coimbatore City Municipal Corporation,  
Coimbatore-1.

Copy to: The Section Officer,  
Writ Section,  
High Court, Madras  
(for direction post before single Judge  
as per roster)

+1cc to Mr.R.Sivakumar, Advocate Sr.No.20204

BR(CO)  
sm:9.4.2018

W.A.No.1512 of 2015



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