

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the First day of March Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE SATRUGHANA PUJAHARI

WMP No.10886 of 2017

IN WP.9886/2017

R.SURESHKUMAR, [PETITIONER]
CONSERVANCY INSPECTOR, O/O ASSISTANT
COMMISSIONER, ZONE IV, THONDAYARPET,
CORPORATION OF GREATER CHENNAI, CHENNAI

Vs

1 THE GOVERNMENT OF [RESPONDENTS]
TAMIL NADU, REP BY SECRETARY, MUNICIPAL
ADMINISTRATION AND SEWERAGE AND WATER
DEPARTMENT SECRETARIAT, GEORGE ST FORT,
CHENNAI

2 THE PRINCIPAL SECRETARY/
COMMISSIONER, O/O. OF THE COMMISSIONER OF
CORPORATION, GREATER CHENNAI CORPORATION,
RIPPON BUILDING CHENNAI

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an order of ad interim stay, staying the punishment viz G.D.C. No.E13/ 12126/ 2012 dated 31.07.2015 issued by the 2nd respondent so as to promote him to the post of conservancy supervisor pending the writ petition No.9886/2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.KRISHNAMOORTHY, Advocate for the petitioner and of MRS.R.JANAKI, Additional Government Pleader for the 1st respondent and of MR.G.ANANDHA RANGAN, Advocate for the 2nd respondent, the court made the following order:-

This Writ Miscellaneous Petition, at the instance of the writ petitioner has been filed with a prayer to stay the punishment imposed in a Disciplinary Proceeding against him vide G.D.C.No.E13/12126/2012 dated 31.07.2015 issued by the 2nd respondent. As it appears from the materials on record, the petitioner was held guilty in a disciplinary proceeding and the punishment was imposed so also an appeal preferred against the same before the Statutory Authority also failed. He has challenged such finding of guilty and punishment imposed in this writ petition *inter alia* on the ground that there was a violation of principles of natural justice i.e principles of *Audi Alterm Partem* in recording the finding of guilty, so also the order was perverse.

2. It appears that this Court while issuing notice in the said writ petition had not stayed the matter, but now in the writ miscellaneous petition, the petitioner seeks the relief to stay the aforesaid order of punishment and consider the case of the petitioner for promotion, pending disposal of the writ petition.

3. The learned counsel appearing for the petitioner submits that since the petitioner has been deprived of the promotion for a substantial period due to the pendency of a protracted disciplinary proceeding in which he had no contribution, therefore notwithstanding the disqualification incurred by him on account of the findings of guilt against him in the disciplinary proceeding and punishment imposed, which is otherwise perverse, unless he be allowed to be considered for promotion, otherwise, he would suffer from irreparable loss and injuries. Hence, necessary direction in this regard be given to the respondents to consider his case for promotion notwithstanding the aforesaid qualification with the fetter that the same shall be subject to the result of the writ petition.

4. The same is controverted by the learned counsel appearing for the respondent with the submission that since the petitioner has incurred a disqualification which has challenged in the writ petition allowing the prayer of the petitioner in the writ miscellaneous petition would tantamount to grant of final relief without adjudication of the same. Further more, it is submitted that if the petitioner found to have a case he can very well be adequately compensated by giving necessary direction in the writ petition to accord him promotion from anterior date, which could not be given to him but for the pendency of the disciplinary proceeding and also the punishment imposed. Hence the writ miscellaneous petition is liable to be dismissed, is the submission of the learned counsel for the respondent.

5. After considering the prayer made by the parties and also the fact that the petitioner has challenged the recording of guilty and the punishment imposed against him which admittedly, a

disqualification for considering is case against for promotion. This Court is of the view that allowing the prayer made in the writ miscellaneous petition would tantamount to grant the final relief sought for without adjudication, that too without any impelling and compelling reasons. Hence this writ miscellaneous petition is devoid of merit and as such, this writ miscellaneous petition stands dismissed.

-sd/-
01/03/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY
GOVERNMENT OF TAMIL NADU,
MUNICIPAL ADMINISTRATION AND SEWERAGE AND
WATER DEPARTMENT SECRETARIAT, GEORGE ST FORT,
CHENNAI

2 THE PRINCIPAL SECRETARY/
COMMISSIONER, O/O. OF THE COMMISSIONER OF
CORPORATION, GREATER CHENNAI CORPORATION,
RIPPON BUILDING CHENNAI

C.C. to M/S.K.KRISHNAMOORTHY Advocate SR.NO. 2613

Order

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Date :01/03/2018

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