

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 13.03.2018
Coram

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

W.A.No.370 of 2014

Mohammed Abubakkar Siddique .. Appellant

Vs.

1.The Managing Director
Tamil Nadu Fisheries Development Corporation
Chennai 28.

2.The Manager (Audit & Accounts)
Tamil Nadu Fisheries Development Corporation
Chennai 28. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 27.11.2013 made in W.P.No.10644 of 2007 on the file of this Court.

WP.No.10644 of 2007:Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the Ist respondent in his proceedings Na.Ka.No.2547/1000-1/05 dt 25.4.2006 and quash the same as illegal and consequentially to direct the Ist respondent to reinstate the petitioner without all attendant benefits

For Appellant : Mr.S.Nambi Arooran

For Respondents: Mr.Master Ganesh

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The appellant was removed from service by order dated 28 April 2006. The effective date was 22 December 2004. The appellant challenged the punishment before the writ court in W.P.No.10644 of 2007. The learned Single Judge found that the enquiry was not conducted in accordance with the principles of natural justice. The learned single Judge modified the punishment into one of compulsory retirement. There was a direction to the respondents to give all the service benefits to

the appellant till the date of his dismissal from service. However, the date was wrongly mentioned as 03 October, 2002 instead of 22 December, 2004. Feeling aggrieved, the appellant is before this Court.

2. The documents available on record indicate that the disciplinary authority initiated disciplinary proceedings against the appellant on account of his unauthorised absence. The appellant was punished after conducting enquiry by the disciplinary authority by order dated 28 April, 2006. The dismissal was made effective from 22 December 2004.

3. When a challenge was made to the order of dismissal, the learned single Judge found that enquiry was not conducted in the manner known to law. The learned single Judge instead of remanding the matter to the disciplinary authority, modified the punishment into one of compulsory retirement.

4. The order passed by the learned single Judge was accepted by the respondents, meaning thereby, the employer has accepted the punishment of compulsory retirement. There is no question of remitting the matter to the enquiry officer at this point of time, in view of the fact that the appellant has retired from service on attaining the age of superannuation on 28 July 2017. We are, therefore, of the view that on facts, the learned single Judge was correct in modifying the punishment into one of compulsory retirement.

5. The learned single Judge while directing the respondents to calculate the pensionary benefits and other service benefits to the appellant, inadvertently noted the date of dismissal from service as 03 October, 2002 instead of 22 December 2004. The effective date of dismissal is found in the order passed by the disciplinary authority. We are, therefore, of the view that the calculation of benefits should be on the basis that the appellant was dismissed from service on 22 December, 2004.

6. The appellant should be given the benefits directed to be given by the learned single Judge treating his date of dismissal as 22 December 2004. The benefits shall be paid to the appellant within a period of two months from the date of receipt of a copy of this judgment.

The intra court appeal is disposed of with the modification in the order passed by the learned single Judge as indicated above. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms

To

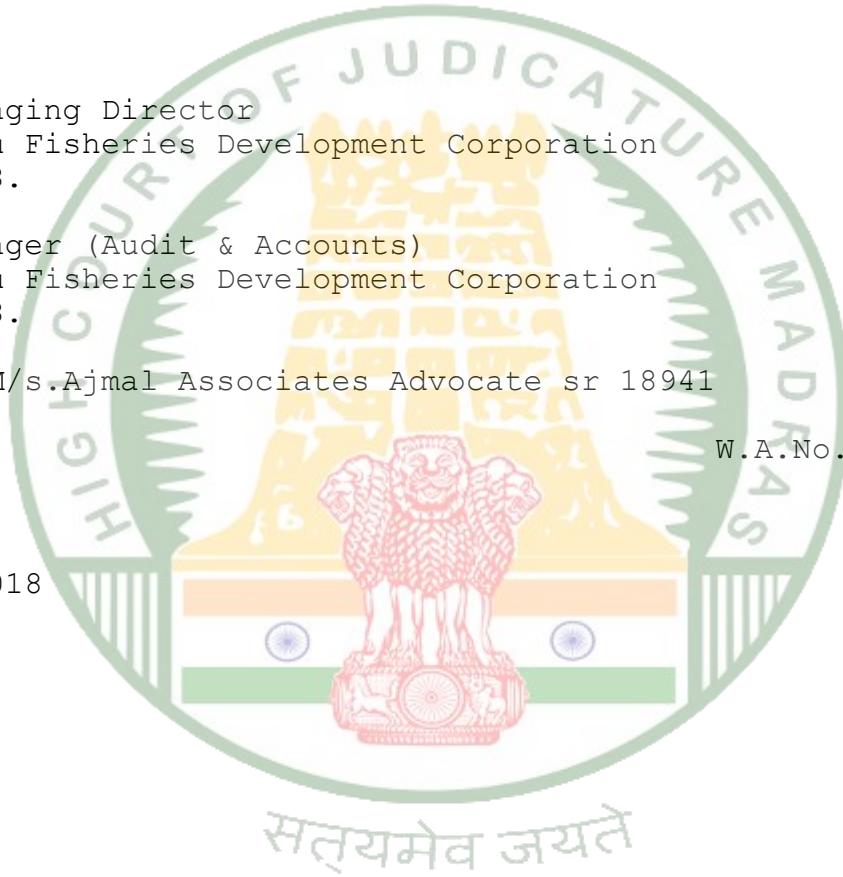
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