

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.06.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.9756 of 2018

S.Kalaiselvan

...Petitioner

Versus

1. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003
2. The Joint Director,
Local Fund Audit Department,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003
3. The Assistant Commissioner,
Greater Chennai Corporation,
Zone XV, Tiruvottiyur,
Chennai - 600 019
4. The Regional Joint Director,
Local Fund Audit Department,
Water Tank Complex, Dindigul Road,
Trichy - 620 001, Trichy District
5. The Commissioner,
Kumbakkonam Municipality,
Kumbakkonam - 612 001,
Thanjavur District

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing the respondent nos.1, 3 & 5 to consider the representation dated 30.06.2017 made by the petitioner and pass appropriate orders within stipulated time period as may be fixed this Court for taking necessary steps to clear the audit objections with the 2nd and 4th respondents.

For Petitioner : Mr.T.Sundaravadanam

For RR1 to 3 : Mr.R.Arunmozhi

For RR4 & 5 : Mrs.R.Janaki,
Additional Government Pleader

ORDER

Heard Mr.T.Sundaravadanam, the learned counsel for the petitioner, so also Mr.R.Arunmozhi, the learned counsel for the respondents No.1 to 3 and Mrs.R.Janaki, learned Additional Government Pleader for the respondents No.4 and 5.

2. The grievance of the petitioner in this writ petition is that though pursuant to the audit objection a disciplinary proceeding has been initiated against him, but it clearly emanates from the record that the same is collective in nature and as such he has submitted a representation to the respondents No.1,3 and 5 to consider his representation to take steps to clear the audit objection pending before the second and fourth respondents and exonerate him from the disciplinary proceeding and release the retiral benefit as he was due for superannuation from the service on 31.12.2015. Since no order has been passed on his such representation dated 30.06.2017 he has filed this writ petition seeking a writ of mandamus directing the respondents No.1, 3 and 5 to dispose of such representation to clear the audit objection within a stipulated period.

3. In the counter affidavit filed, the Chennai Municipal Corporation has not disputed that an amount of Rs.6,90,31,507/- has been cleared as collective in nature and as such in a joint sitting of the Greater Chennai Corporation but so far as the audit objection to the tune of Rs.2,00,46,418/- is concerned, the same has to be cleared by the Chennai Metro Water Supply and Sewerage Board and only after clearing of the same, the charge against the petitioner can be dropped and as such this writ petition seeking disposal of the representation by the respondents is without any substance.

4. It is submitted by the learned counsel for the petitioner that since responsibility is prima facie collective in nature he could not have been proceeded on an audit objection on the verge of his retirement by the disciplinary authority. However, since there are two audit objections both are similar in nature and one of the audit objections in the meanwhile having been cleared being collective, the same charge already been dropped and the next one is also being similar in nature, the respondents No.1, 3 and 5 be directed to clear the said audit objection and consequently the disciplinary proceeding against

the petitioner be dropped by issuing writ of mandamus in this regard to the respondents as prayed for.

5. Since the disciplinary action has been initiated basing on the audit objection which is yet to be cleared and the petitioner has made representation specifically to respondents No.1, 3 and 5 indicating therein that the amount pointed out in the audit objection being collective in nature, he could not have been proceeded with and no action has been taken and also the fact that the said audit objection is required to be cleared by the Chennai Metro Water Supply and Sewerage Board, this Court disposes of this writ petition with a direction to the petitioner to make a representation to the appropriate authority of the Chennai Metro Water Supply and Sewerage Board in this regard within a period of 10 days and thereafter the respondents along with the Chennai Metro Water Supply and Sewerage Board shall consider such representation of the petitioner with regard to the claim of the petitioner that the amount being collective in nature he could not have been proceeded with and as such the audit objection be cleared, within three months from the date of receipt of a copy of this Order. Needless to say that if the audit objection is cleared, the petitioner shall make a representation in this regard before the disciplinary authority to give a relook to the disciplinary proceeding initiated against him and on such representation the disciplinary authority shall do the needful as permissible under law in the facts and circumstances of the case.

6. With the aforesaid order, this writ petition stands disposed of. However in the circumstances no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

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To

1. The Commissioner,
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Ripon Buildings,
Chennai - 600 003

2. The Joint Director,
Local Fund Audit Department,
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Chennai - 600 003
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Water Tank Complex, Dindigul Road,
Trichy - 620 001, Trichy District
5. The Commissioner,
Kumbakkonam Municipality,
Kumbakkonam - 612 001,
Thanjavur District

+1cc to Mr.T.Sundaravadanam, Advocate sr.no.40706
+1cc to Mr.P.Srinivas, Advocate sr.no.41959
+1cc to Mr.R.Arunmozhi, Advocate sr.no.41129
+1cc to Government Pleader sr.no.41382

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nr 02/08/2018

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