

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4950 of 2018

S.P.Chidambaram

.. Petitioner

-vs-

The Secretary to Government
Public Works Department
Government of Tamil Nadu
Fort St.George
Chennai 600 009

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 4.12.2017 in G.O.(D) No.412 Public Works (E1) Department of the respondent herein and quash the same and consequently direct the respondent to allow the petitioner to retire from service with effect from 31.7.2002 with all attendant benefits.

For Petitioner :: Mr.AR.Karthick Lakshmanan

For Respondent :: Mr.V.Kadhirvelu
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned G.O.(D) No.412 Public Works (E1) Department dated 4.12.2017 dismissing the petitioner from service, since the petitioner was convicted for the offence under Section 7 of the Prevention of Corruption Act and sentenced to undergo simple imprisonment for five years and to pay a fine of Rs.25,000/-, in default of payment of fine, to undergo simple imprisonment for one year and convicted for the offence under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and sentenced to undergo simple imprisonment for seven years and to pay a fine of Rs.25,000/-, in default of payment of fine, to undergo simple imprisonment for one year by the learned Chief Judicial Magistrate/Special Judge, Ariyalur in its judgment dated 25.2.2016 passed in Spl.Case No.3 of 2012.

2. Learned counsel for the petitioner submitted that although the petitioner was convicted for the offence under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 by the learned Chief Judicial Magistrate/Special Judge, Ariyalur in Spl.Case No.3 of 2012, aggrieved by the judgment of conviction and sentence, he has preferred an appeal before this Court in Crl.A.No.181 of 2016 and this Court in Crl.O.P.No.2518 of 2016 passed an order of suspension of the sentence on 8.3.2016. When the sentence has already been suspended and the Crl.A.No.181 of 2016 filed against the judgment dated 25.2.2016 passed in Spl.Case No.3 of 2012 by the learned Chief Judicial Magistrate/Special Judge, Ariyalur is pending consideration, the respondent ought not to have issued the show cause notice and even after receipt of the explanation specifically mentioning that the sentence imposed by the learned Chief Judicial Magistrate/Special Judge, Ariyalur has been suspended, instead of accepting the request not to dismiss the petitioner from service, wrongly passed the impugned order dated 4.12.2017. Therefore, the same is liable to be interfered with, he pleaded.

3. But this Court is unable to find any merit in the writ petition. The reason being that the petitioner was admittedly found guilty by the learned Chief Judicial Magistrate/Special Judge, Ariyalur in Spl.Case No.3 of 2012 by the judgment dated 25.2.2016 and sentenced to undergo simple imprisonment for five years and to pay a fine of Rs.25,000/-, in default of payment of fine, to undergo simple imprisonment for one year for the offence under Section 7 of the Prevention of Corruption Act, 1988 and sentenced to undergo simple imprisonment for seven years and to pay a fine of Rs.25,000/-, in default of payment of fine, to undergo simple imprisonment for one year for the offence under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. When the sentence of imprisonment alone has been suspended by this Court and not the conviction part in the appeal, the respondent has rightly passed the impugned order dismissing the petitioner from service. Hence, this Court is not able to find any error or infirmity with the impugned order. Accordingly, the writ petition is dismissed. Consequently, W.M.P.No.6103 of 2018 is also dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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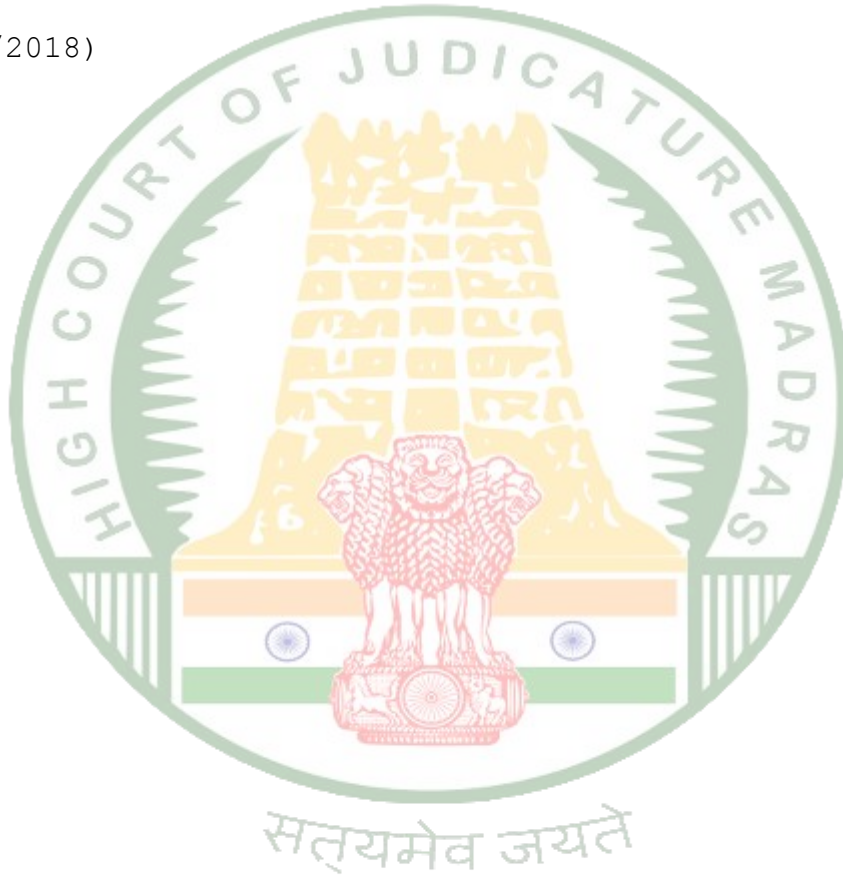
To

1. The Secretary to Government
Public Works Department
Fort St.George
Chennai 600 009

+1cc to Mr.AL.Gandhimathi, Advocate, S.R.No.17218

W.P.No.4950 of 2018

RRK(23/03/2018)



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