IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twentieth day of February Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE SATRUGHANA PUJAHARI

WMP NO.27464 OF 2017

IN WP.19831 OF 2017

TAMILNADU FOOD SAFETY AND [PETITIONER]
DRUG ADMINISTRATION DEPARTMENT REP BY
COMMISSIONER OF FOOD SAFETY 359, ANNA SALAI,
CHENNAI-06

Vs

1 M.MARIAPPAN, [RESPONDENTS]

2 THE DESIGNATED OFFICER
TAMILNADU FOOD SAFETY AND DRUG
ADMINISTRATION DEPARTMENT CHENNAI DISTRICT,
33, WEST JONES ROAD, SAIDAPET, CHENNAI-15.

3 GREATER CHENNAI CORPORATION
REP BY COMMISSIONER, RIPON BUILDING,
CHENNAI-03.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to
vacate the Interim Stay ordered on 02.08.2017 in WP No.19831 of 2017 (in WMP.No.27464/17) in WP.No.19831/17.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MRS.R.JANAKI Additional Government Pleader for the petitioner and of MR.K.SRINIVASA MURTHY Advocate for 1st respondent and MR.G.ANANTHARANGAN Advocate for the 3rd respondent the court made the following order:-

This writ miscellaneous petition had been filed by the respondent in WP.No.19831/2017 to vacate the interim order of stay granted on 02.08.2017in WP.No.19831/2017.

2. It appears that petitioner who was working as Sanitary Inspector and also Food Inspector under the Food Adulteration Act (since repealed) in Chennai City Municipal Corporation/3rd

respondent was asked to work as Food Safety Officer under Section 37 of the Food Safety and Standards Act,2006, in the Department of Health and Family Welfare, Tamil Nadu. Accordingly the petitioner has joined in the said post. Subsequently a new Department was created in the name and style of Food Safety and Drug Administration Department to implement the Act and the petitioner was deployed therein as a Food Safety Officer as he was a Senior Sanitary Inspector cum Food Inspector in Chennai Corporation and the said Department had taken decision to appoint senior most Food Cum Senior Sanitary Inspector in Municipal Corporation as well as senior most Food Inspector under the Health Department, against the post of Food Safety Officer by deployment.

3. The petitioner while working as such being deployed, alleged to have committed misconduct himself and as such the Department decided to dispense with the service and revert him back to his original post under Chennai Municipal Corporation. But the Chennai Municipal Corporation was not agreeable to receive him back, inasmuch as he has already been permanently deployed in the Department and the post of Sanitary Inspector has already been filled up by Chennai Municipal Corporation. Challenging such order of the respondent no.1 to revert the petitioner, he has filed this writ petition on the ground that he being no more an employee of the Chennai Municipal Corporation, having been permanently deployed with the respondent no.1/Department, such an order of reversion is illegal. This Court while issuing notice on the writ petition, stayed the impugned order. Now the Department wants vacation of such order alleging that the petitioner has committed serious misconduct and acting prejudicial to the purpose of the Food Safety and Standards Act.

4. It is the submission of the learned Additional Government Pleader appearing for the petitioner in miscellaneous petition that for effective implementation of Food Safety and Standards Act, the Department has been created and the petitioner in writ petition who was brought from Chennai Municipal Corporation temporarily, having misconducted himself and involved in different nefarious activity, the Department decided to repatriate him back where he was originally posted. There being no right vested with petitioner to work in Foreign Department to which he was brought on deputation, this writ petition is devoid of merits, as such stay granted in this case needs to be vacated. The same is vehemently opposed by the learned counsel for petitioner in writ petition on the ground that after creation of the Department, the petitioner has been permanently deployed and the same has also been supported by Chennai Municipal Corporation. Therefore, the prayer for vacation of stay is devoid of merit.

5. Considered the facts and submissions of the parties and perused the materials placed on record. It appears that, though the petitioner was originally working in the Chennai Municipal Corporation and on implementation of the Food Safety and Standards Act, he was asked to work as a Food and Safety Officer under the aforesaid Act. In the meanwhile, the Government having created the

new Department for implementation of the aforesaid Act and also having decided to appoint the Food Safety Officers by deployment from the Senior Sanitary Inspector/Food Inspector working in the Municipal Corporation as well as the Food Inspector under the Health Department and the petitioner being the senior he has been so deployed along with others. Such deployment appears to be permanent as the department having created, wants to fill up the post with Senior Food Inspector working under the repealed Food Adulteration Act. In such premises, *prima facie* it cannot be accepted that he having his lien with Chennai Municipal Corporation and not an employee of the newly created Department i.e.,respondent no.1 to the writ petition. His original employer i.e., Greater Chennai Municipal Corporation/respondent no.3 also support such stand with the submission that no post exist to accommodate the writ petitioner. In such circumstances, the prayer made to vacate the order of staying the operation of the impugned order, in the writ miscellaneous petition filed by the respondent no.1, appears to be devoid of merit and accordingly dismissed.

-sd/-
20/02/2018
/ TRUE COPY /

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

TO
1 THE DESIGNATED OFFICER,
TAMILNADU FOOD SAFETY AND DRUG
ADMINISTRATION DEPARTMENT CHENNAI DISTRICT,
33, WEST JONES ROAD, SAIDAPET, CHENNAI-15

2 THE COMMISSIONER,
GREATER CHENNAI CORPORATION
RIPON BUILDING, CHENNAI-03.

C.C. to GOVERNMENT PLEADER SR.No.2108
C.C. To MRS.JANAKI Advocate SR.No.2246
C.C. To MR.ROW & REDDY Advocate SR.No.2056

The Government Advocate, High Court, Madras - 104.

Order
in
WMP.27464/2017
in
WP.19831/2017
Date :20/02/2018

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