

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A.No.1713 of 2014
and M.P.No.1 of 2014

K.Srinivasan,
Assistant Engineer (Under Suspension)
PWD, Water Resources Organizatin
Krishna Water Supply Project, Sub-Division-IV,
THiruvallur,
Residing at
No.357, Vittilapuram Road,
Pudhupattinam, Kalpakkam,
Kanchipuram District. .. Appellant/Petitioner

vs.

The Principal Secretary to Government,
Public Works Department,
Secretariat,
Chennai - 600 009. .. Respondent/Respondent

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 18.11.2014 made in W.P.No.29900 of 2014.

Prayer in W.P.No.29900 of 2014 is filed U/Art 226 of the
Constitution of India for the issuance of the Writ of
Certiorarified Mandamus Calling for the records of the
Respondent in Letter No. 8407/E1/2006-29 Public Works dated
24.07.2007 and Letter No. 8407/E-1/2006-102 dated 13.08.2014
and to quash the same and direct the Respondent to re-instate
the Petitioner in service with all attendant benefits including
his promotions.

For Appellant : Mr.Richardson Wilson
for M/s.P.Wilson Asso.

For Respondent : Mr.N.Sakthivel
Additional Government Pleader

JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

This writ appeal filed by the writ petitioner is directed against the order passed in W.P.No.29900 of 2014 dated 18.11.2014. The said writ petition was filed challenging the charge memo and the consequential proceedings and for a prayer to reinstate the petitioner in service with all attendant benefits including his promotion. The writ petition was dismissed by the impugned order.

2.We have carefully perused the order passed by the learned Single Bench and fully subscribed to the view taken by the learned Single Bench. The appellant participated in the domestic enquiry, the enquiry officer has submitted his report and the disciplinary authority has issued a second show cause notice enclosing the copy of the enquiry officer's report, to which, the appellant has filed his report. However, final orders could not be passed because of an interim order granted in this writ appeal in the year 2014. Subsequently, when the case came up for hearing on 26.03.2018, another Division Bench of this Court thought fit to revoke the order of suspension and directed the appellant to reinstate in service in a non-sensitive post. Mr.Richardson Wilson, learned counsel for the appellant would submit that the suspension of the appellant has been revoked and he has been posted in a non-sensitive post. In our considered view, the appellant having participated in the domestic enquiry, the question of now challenging the charge memo does not arise.

3.The sheet anchor of the argument of the learned counsel for the appellant is that the appellant was arrayed as the 4th accused in the criminal case registered by the CBCID, Tiruvannamalai and after full trial, the appellant has been acquitted by the Chief Judicial Magistrate cum Special Court, Tiruvannamalai by order dated 27.04.2016. It is submitted that the charge sheet in the criminal case is also on the same set of facts. In our considered view, we cannot examine this contention. However, it is well open to the appellant to raise such a contention before the disciplinary authority.

4.In the light of the above, the stay granted by the Court restraining the respondents from passing final orders is vacated and the appellant is directed to submit a further reply to the second show cause notice within a period of two weeks from the date of receipt of a copy of this judgment, after which, the disciplinary authority shall pass final orders within a period of thirty days from the date on which appellant submitted the further reply. Till then, the appellant shall be permitted to

continue in the place where he has been posted as on date based on the interim order granted by another Division Bench in this appeal on 26.03.2018.

5.With the above observation, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Principal Secretary to Government,
Public Works Department,
Secretariat,
Chennai - 600 009.

+1cc to M/S.Wilson Associates, Advocate Sr.86821
+1cc to the Government Pleader Sr.86746

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srg 03/01/2019

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