



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2018

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THE HON'BLE MR.JUSTICE R.SURESH KUMARW.P.(MD) No.12044 of 2018

P.Mohammed Ibrahim

... Petitioner

-vs-

1. The Chief Engineer,
Agricultural Engineering,
Nandanam
Chennai - 600 035.

2. The Superintending Engineer,
Agricultural Engineering
NGO Colony
Virudhunagar.

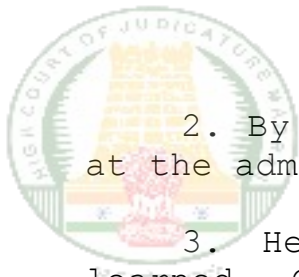
.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the first respondent ie., the Chief Engineer (A&E), Chennai, to obtain the report of the second respondent ie., the Superintending Engineer (A&E), Virudhunagar to pass appropriate final orders on the disciplinary proceedings initiated by the Superintending Engineer (A&E), Virudhunagar, in his memo No.E/766/2016 dated 23.03.2016, within a specified time frame considering the petitioner's date of superannuation on 30.09.2019 within a specified time frame that may be fixed by this Court.

For Petitioner Mr.S.Visvalingam

For Respondents: Mr.K.Saravanan
Government Advocate**O R D E R**

The prayer in the writ petition is for a Writ of Mandamus to direct the first respondent ie., the Chief Engineer (A&E), Chennai, to obtain the report of the second respondent ie., the Superintending Engineer (A&E), Virudhunagar to pass appropriate final orders on the disciplinary proceedings initiated by the Superintending Engineer (A&E), Virudhunagar, in his memo No.E/766/2016 dated 23.03.2016, within a specified time frame considering the petitioner's date of superannuation on 30.09.2019.



2. By consent of both sides, the writ petition is disposed of at the admission stage itself.

3. Heard the learned counsel for the petitioner and the learned Government Advocate, who accepts notice for the respondents.

4. According to the learned counsel for the petitioner, the grievance of the petitioner is that, against him, though a charge memo dated 23.03.2016 was issued and an explanation for the said charge memo also submitted by him on 14.06.2016 and a representation also has been submitted on 20.06.2016 and an Enquiry Officer was appointed on 22.09.2016, the enquiry was not conducted. According to the learned counsel, the reason being for not conducting the enquiry, that the Enquiry Officer appointed, had expressed his inability to conduct the enquiry, as he was only having a short period for his retirement.

5. Thereafter, the second Enquiry Officer was appointed on 03.01.2017, even his case also similar to that of the first Enquiry Officer. Therefore, a third Enquiry Officer was appointed on 07.11.2017. In spite of the third Enquiry Officer was appointed as early as on 07.11.2017, so far, no enquiry was initiated and no communication has been received to that effect by the petitioner. In this regard, even though the petitioner had given a representation to complete the disciplinary proceedings immediately, as he is approaching the date of superannuation, which falls on 30.09.2019 and such representation was given by the petitioner on 08.01.2018, nothing was forthcoming from the respondents.

6. Therefore, the learned counsel for the petitioner would submit that, unless a time frame is fixed by this Court within which, if a direction is given to the respondents, to complete the enquiry and to pass orders, the petitioner will not see the light of the conclusion of the disciplinary proceedings initiated against him in the near future, with the result that will have a repercussion on his retirement at the time of superannuation, which falls on 30.09.2019.

7. I have heard the learned Government Advocate for the respondents, who would submit that, within a specified time that may be fixed by this Court, the respondents would take all earnest steps to complete the enquiry and pass final order.

8. I have considered the said submissions made by both sides.

9. Considered the said circumstances of the case, as the charge memo was issued in the year 2016 and thereafter even though three Enquiry Officers were appointed, no progress seems to have been made towards conducting the enquiry, with the result, the



petitioner is facing the disciplinary proceedings without any progress, that too, at the end year of his service career before superannuation.

10. In view of the said position, to meet the ends of justice, this writ petition is disposed of with the following directions:

(i) that the respondents are directed to complete the disciplinary proceedings by concluding the enquiry either with the third Enquiry Officer appointed on 07.11.2017 or any other new Enquiry Officer to be appointed in this regard and pass final order after getting report of the Enquiry Officer within a period of three months from the date of receipt of a copy of this order ;

(ii) If the disciplinary proceedings is not completed within the time stipulated and no enquiry is conducted, it shall be deemed that the respondents are not interested in completing the disciplinary proceedings and on expiry of the said three months period, it shall be construed that the petitioner shall be at liberty to seek exoneration of the charges and thereby he would be entitled to seek service benefits on his attaining superannuation ;

(iii) It is made clear that since a time bound order is issued, within which, a direction was given, to complete the enquiry, the petitioner shall cooperate with the Enquiry Officer/disciplinary proceedings in all respects without taking any unnecessary time on his part with lame excuses.

No costs.

Sd/-

Assistant Registrar ()

/True Copy/

Sub Assistant Registrar(CS-)

To:

1. The Chief Engineer,
Agricultural Engineering,
Nandanam
Chennai - 600 035.
2. The Superintending Engineer,
Agricultural Engineering
NGO Colony, Virudhunagar.

+1cc to Mr.S.VISVALINGAM, Advocate, Sr.No.66909.

+1cc to Special Government Pleader, Sr.No.67128.

W.P. (MD) No.12044 of 2018

06.06.2018