

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

Writ Appeal No. 795 of 2019

&

C.M.P. No. 6258 of 2019

The Managing Director
The Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035. ...Appellant/Respondent

Vs.

K. Senthilkumar ..Respondent/Petitioner

Prayer: Writ Appeal as against the order dated 22.01.2019 passed in W.P. No. 23738 of 2016. This Petition under Article 226 of the Constitution of India, praying for the issue of a writ of certiorari Calling for the records in memo No.DC-6/13481/2016-4 dated 08.07.2016 on the file of the respondent and quash the same as illegal and contrary to law.

For Appellant :: Dr.R. Gouri

For Respondent :: Mr.L. Chandrakumar for
M/s.K. Karthik Jagannath
Venkata Seshaiya

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN, J.)

The appellant challenges the order dated 22.01.2019 in W.P. No. 23738 of 2016 allowing the writ petition filed by the respondent challenging the order dated 08.07.2016 placing him under suspension.

2. The respondent was placed under suspension pending initiation of disciplinary proceedings. The suspension was on 08.07.2016. Thereafter, the appellant issued a charge memo on 25.10.2016. The appellant also appointed an enquiry officer. The enquiry officer completed the enquiry and the report was submitted to the Disciplinary Authority.

3. Even before the completion of enquiry, the respondent filed two writ petitions. The writ petition in W.P. No. 40752 of 2016 was filed to challenge the charge memo. Similarly, the order of suspension dated 08.07.2016 was challenged in W.P. No. 23738 of 2016. It is a matter of record that during the currency of the two writ petitions filed by the respondent, the enquiry officer submitted his report and further representation was called for from the respondent.

3. The learned Single Judge opined that the case is one of prolonged suspension and as such the respondent should be given the benefit of the judgment of the Honourable Supreme Court in Ajay Kumar Choudhary V. Union of India reported in (2015) 7 SCC 291. The learned Single Judge quashed the order of suspension and directed the appellant to reinstate the respondent into service.

4. There is no dispute that after filing the writ petition in W.P. No. 23738 of 2016, the Enquiry Officer completed the enquiry. The Enquiry Officer submitted his report on 28.08.2018. The respondent was called upon to submit his response. The respondent by letter dated 02.11.2018 requested the Disciplinary Authority to grant him fifteen days' time to submit his further representation. Even after the expiry of the prescribed period, he has not submitted his response.

5. There is no question of quashing the order suspending the employee without giving an opportunity to the employer to consider the issue on merits.

6. After hearing the learned counsel for the respective parties, we are of the view that the interest of justice would be subserved by directing the appellant to consider the revocation of suspension of the respondent on merits. Such exercise shall be completed on or before 15th April, 2019.

7. We are informed that the respondent is yet to submit his further representation. The respondent is given time till 31st March, 2019 to submit his representation to the Disciplinary Authority taking into account the enquiry report. The Disciplinary Authority shall pass final orders as expeditiously as possible and in any case, on or before 30th April, 2019.

8. We make it clear that we have fixed the above time limit taking into account the convenience of the parties ascertained through their counsel, and as such, the order should be complied with, in its letter and spirit, without seeking extension of time.

9. The order passed by the learned Single judge is modified to the extent indicated above.

10. The intra court appeal is disposed of with the above direction. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

nv

To
The Managing Director
The Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.

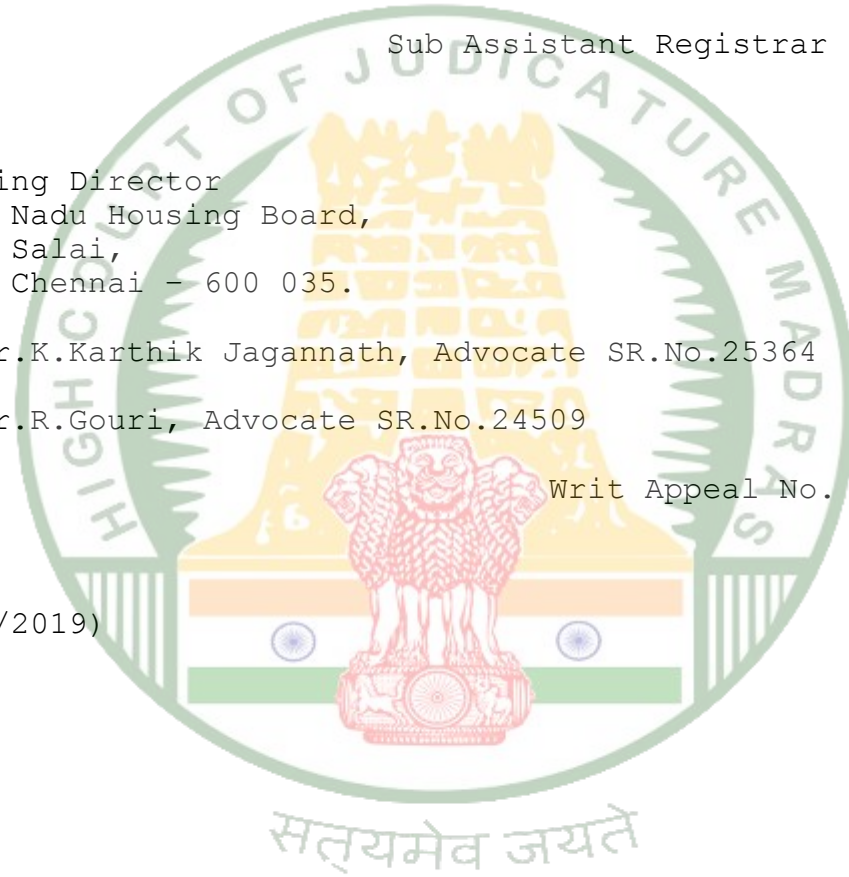
+1cc to Mr.K.Karthik Jagannath, Advocate SR.No.25364

+1cc to Mr.R.Gouri, Advocate SR.No.24509

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SR(CO)

GMV (12/04/2019)



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