

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A NO.1943 OF 2018 AND
CMP NO.15560 OF 2018

V.Sekar

...Appellant

Vs

1.The Commissioner,
Civil Supplies and Consumer Protection Department,
Chepauk, Chennai - 5.

2.The District Collector,
Villupuram District,
Villupuram.

...Respondents

Prayer:-

Writ Appeal filed under clause 15 of Letters Patent, against
the order made in W.P.No.24023 of 2011 dated 07.06.2018.

W.P.No.24023 of 2011 :-

Petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Certiorari, to call for the
records relating to the first respondent dated 05.09.2011 vide
proceeding No.N.K.A3/18039/2011 and to quash the same.

For Appellant : Mr.S.Vijaykumar

For Respondents : Mrs.A.SriJayanthi
Special Govt.Pleader

J U D G M E N T
(Delivered by K.K.SASIDHARAN, J.)

The writ petition filed by the appellant challenging the
charge memo dated 05.09.2011 was dismissed by the learned single
Judge primarily on the ground that dismissal of the earlier writ
petition in W.P.No.22340 of 2011 was not disclosed in the
subsequent litigation. Feeling aggrieved, the appellant has
come up with this intra court appeal.

2. When it was pointed out as to how a second writ petition is maintainable with respect to the very same charge memo in view of the earlier order dated 29.09.2011 in W.P.No.22340 of 2011, the learned counsel for the appellant submitted that he would withdraw the very writ petition itself with liberty to take up all the grounds before the disciplinary authority. The learned counsel has made an endorsement to that effect.

3. There was no factual adjudication of the issue raised by the appellant in the second writ petition in W.P.No.24023 of 2011. The learned single Judge dismissed the writ petition only on the ground of suppression of material particulars with regard to the dismissal of the earlier writ petition. Since the appellant has taken up certain vital points which goes to the root of the matter, we permit him to withdraw the very writ petition with liberty to take up all contentions before the disciplinary authority.

4. In view of the endorsement made by the learned counsel for the appellant withdrawing the writ petition, the order dated 07.06.2018 is set aside. The writ petition in W.P.No.24023 of 2011 is dismissed as withdrawn.

5. The charge memo was issued as early as on 05.09.2011. Subsequently, the appellant was permitted to retire from service without prejudice to the pending disciplinary proceedings. We therefore direct the disciplinary authority to conclude the entire proceedings as expeditiously as possible and in any case on or before 31.07.2019.

6. In view of the order permitting the appellant to withdraw the writ petition, the intra court appeal is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Civil Supplies and Consumer Protection Department,
Chepauk, Chennai - 5.

2. The District Collector,
Villupuram District,
Villupuram.

+1cc to Mr.S.Vijaykumar, Advocate, S.R.No.9273
+1cc to the Government Pleader, S.R.No.9702

W.A No.1943 of 2018

SPD (CO)
CS/21/02/2019



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