

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.08.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.17768 of 2019
and
W.M.P.No.17176 of 2019

A.Jayakumar .. Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Principal Secretary to Government,
Labour and Employment Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Commissioner of Labour,
DMS Campus, Teynampet,
Chennai-600 006

3.Tmt.B.Koteeswari
The Assistant Commissioner of Labour(E) /
Enquiry Officer,
O/o. Assistant Commissioner of Labour,
Korimedu,
Salem-8

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to condone/complete the disciplinary proceedings initiated as per charge memorandum issued by the 2nd respondent in No.F1/42045/2018, dated 27.2.2019, within a time frame to be fixed by this Court and consequently, direct the respondents 1 and 2 to consider the petitioner for promotion to the post of Assistant Commissioner of Labour based on the panel for the year 2017-18 with all consequential and other attendant benefits.

For Petitioner .. Mr.G.Sankaran

For Respondents ... Mr.J.Pothiraj, Spl.G.P.
For R1 and R2

ORDER

The petitioner was initially appointed as Assistant Inspector of Labour through a Selection conducted by the Tamil Nadu Public Service Commission (CSSE-I), on 29.08.2008. He was subsequently promoted to the post of Deputy Inspector of Labour, vide proceedings dated 24.07.2015 and he joined the post on 09.09.2015, at Dharmapuri. The next avenue of promotion from the post of Deputy Inspector of Labour is to the post of Assistant Commissioner of Labour. According to the petitioner, his name was included in the panel for promotion to the post of Assistant Commissioner of Labour for the panel year 2017-18, at serial No.10.

2.While matter stood thus, a charge memorandum was issued on 27.02.2019, for certain acts of misconduct. The petitioner has also submitted his explanation to the charge memorandum, on 30.03.2019. Thereafter, notice of enquiry was issued to the petitioner on 29.04.2019. The petitioner participated in the enquiry, on 04.06.2019.

3.According to the petitioner, the charge-memorandum came to be issued on the basis of the complaint from one K.E.Sekar, who had grouse against him and hence, the basis of the complaint was motivated and suffers from complete falsehood. If only the enquiry initiated by the Department continued and completed, at an early date, the petitioner would be able to establish his innocence and he can come out unscathed, so that his promotion as Assistant Commissioner of Labour is not unduly deferred in view of the pendency of disciplinary action initiated against him.

4.At this, Mr.J.Pothiraj, the learned Special government Pleader would submit that in fact, when notice of enquiry was issued earlier, the petitioner did not appear and therefore, only if the petitioner co-operates with the enquiry, the same can be concluded at an early date. According to the learned Special Government Pleader, the petitioner had entered medical leave for about two months and therefore, he is not available to be called for an enquiry.

5.At this, Mr.G.Sankaran, the learned counsel appearing for the petitioner would submit that he would duly instruct the petitioner to give his utmost cooperation to the enquiry officer for early completion of the enquiry and therefore, he would urge this Court to dispose of the writ petition by giving a suitable direction for conclusion of the departmental enquiry within the time to be stipulated by this Court.

6.Considering the nature of request sought by the learned counsel for the petitioner, this Court is of the opinion that for giving such direction, the learned Special Government Pleader would have no legitimate objection. Therefore, the writ petition is disposed of as under, without expressing any opinion on the merits of the challenge made in the writ petition.

7.The second and third respondents herein are directed to complete the Departmental enquiry initiated against the petitioner in pursuance of charge memorandum dated 27.02.2019 within a period of three months from the date of receipt of a copy of this order. The petitioner is also directed to extend his utmost cooperation for early completion of the departmental action initiated against him. On completion of the enquiry, the third respondent is directed to submit his report within the time stipulated by this Court.

8.The writ petition stands disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

msk

To

1.The Principal Secretary to Government,
Labour and Employment Department,
Secretariat, Fort St.George, Chennai-600 009.

2.The Commissioner of Labour,
DMS Campus, Teynampet,
Chennai-600 006

+1cc to Mr.G.Sankaran , Advocate SR.No. 69634

+1 cc to Government Pleader Sr.No. 70235

W.P.No.17768 of 2019

A.SK(20/09/2019)