

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33322 of 2019 and
W.M.P.Nos.33777 & 33778 of 2019

V.Sivasankaran

... Petitioner

Vs.

1.The Managing Director, SIPCOT,
No.19A, Rukumani Lakshmipathi Road,
Egmore, Chennai - 600 008

2.The General Manager(A&LA), SIPCOT,
No.19A, Rukumani Lakshmipathi Road,
Egmore, Chennai - 600 008

3.The Assistant General Manager,
Legal / Enquiry Officer, SIPCOT,
No.19A, Rukumani Lakshmipathi Road,
Egmore, Chennai - 600 008

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the second respondent impugned Proceeding No.E3/Misc.45/2009 dated 28.11.2018.

For Petitioner : M/s.S.Aparna

सत्यमेव जयते
O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The writ petition has been filed against the order of the second respondent in Proceeding No.E3/Misc./45/2009 dated 28.11.2018.

3.The case of the petitioner is that the petitioner who is a diploma holder in Civil Engineering entered the service as Technical Assistant under the Physically Disabled Quota in the month of September 1986. Subsequently he was promoted as Junior Engineer in the year 1991. While being so, a criminal case was registered against him for the offences under Section 13(1) (d) read with 13(2) of the Prevention of Corruption Act.

Immediately after registration of criminal case, disciplinary proceedings was initiated by issuing charge memo dated 14.01.2011. Thereafter enquiry notice was issued. Ultimately, the criminal case registered by Directorate of Vigilance and Anti-Corruption ended in acquittal in favour of the petitioner. Initially the charge memo dated 14.01.2011 was issued containing two charges and subsequently another charge memo was issued adding one more charge to the above said two charges and thereafter disciplinary proceeding was initiated against the petitioner. On 10.03.2019, the petitioner made a request to engage a lawyer. However, no order was passed. Hence, he filed a writ petition in W.P.No.12043 of 2019 for permission to engage a lawyer for participating in the departmental proceeding. This Court by order dated 26.04.2019 permitted the petitioner to make a fresh representation seeking for assistance of one of his colleagues or a retired employee of any department or if Enquiry Officer is a Law graduate, then for assistant of a Lawyer, and further the authority competent was also directed to take a decision and proceed with the enquiry. Thereafter enquiry officer was appointed on 25.11.2018 to hold enquiry and charges were framed against the petitioner. Subsequently, on 28.11.2018 one, Mr.Ravishankar, Deputy Manager, SIPCOT Head Office was appointed as Management Representative to represent the management in the above enquiry. Challenging the said proceeding dated 28.11.2018, this writ petition has been filed.

4.M/s.Aparna, learned counsel appearing for the petitioner submits that though two charge memo were issued on the same set of facts one was issued in the year 2018 and another in the year 2011, which was before criminal case. The respondents have not disclosed any reason for the first enquiry conducted in the year 2011, enquiry officer was appointed on 09.01.2013 and 23.01.2013, and enquiry was dropped without stating any valid reasons. Now the first respondent is conducting the second enquiry against the office order dated 04.02.1994 which is an Amendment to Service Rules therefore the impugned Proceeding No.E3/Misc./45/ 2009 dated 28.11.2018 is liable to be quashed.

5.Heard both sides.

6.This Court perused the materials on record. While he is in service, a criminal case was registered against him and immediately after registration of criminal case, disciplinary proceedings was initiated by issuing charge memo dated 14.01.2011. Enquiry notice was also issued. But the criminal case ended in acquittal in favour of the petitioner and the said departmental proceedings was dropped. However, subsequently another charge memo was issued. Thereafter disciplinary proceeding was initiated against the petitioner on 10.03.2019 and enquiry officer was appointed on 25.11.2018 to hold enquiry

and charges were framed against the petitioner. Subsequently, on 28.11.2018, one, Mr.Ravishankar, Deputy Manager, SIPCOT Head Office was appointed as Management Representative to represent the Management in the above enquiry.

7.The present petition has not been filed against the charge memo. Accepting the charge memo the petitioner participated in the enquiry. Thereafter filed a writ petition for engagement of lawyer, and the said request was rejected by this Court however permission was granted to seek for assistance of a legally trained person. Thereafter he participated in the enquiry and the enquiry officer recorded the submission of the witness produced by the department as well as the delinquent officials and filed report before the competent authority, and now by the impugned order, one Mr.Ravishankar, Deputy Manager, SIPCOT Head Office has been appointed as Management Representative to represent the management in the above enquiry, which is the decision of the disciplinary authority, and this Court cannot interfere with the same. Therefore, this writ petition is liable to be dismissed.

8.However, though the trap case was initiated against the petitioner in the year 2011, till date the departmental enquiry has not been concluded. Therefore, I am inclined to issue a direction to conclude the departmental enquiry in a time framed manner. Accordingly, the respondents are directed to conclude the departmental enquiry against the petitioner within a period of six months from the date of receipt of a copy of this order, and the petitioner is also directed to co-operate with the enquiry.

9.With the above observations, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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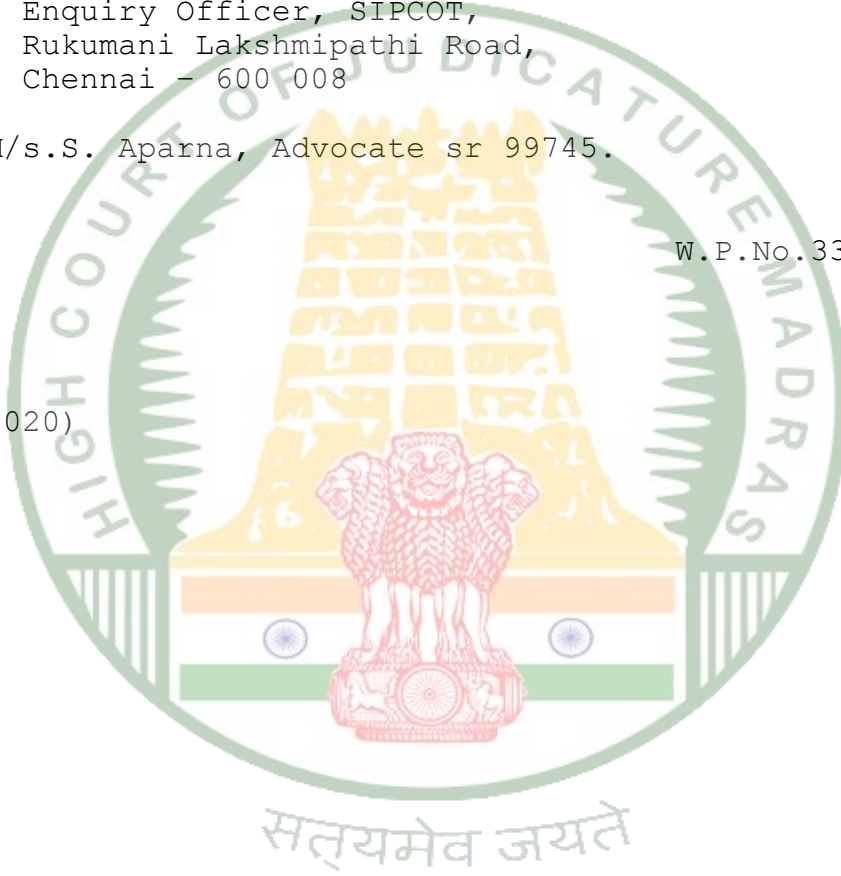
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To

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- +1 CC to M/s.S. Aparna, Advocate sr 99745.

W.P.No.33322 of 2019

SKV(CO)
SP(07/02/2020)



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