

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.09.2019

CORAM

The Honourable Mr. Justice M.DHANDAPANI

W.P.No.25864 of 2018

K. Pitchandi

... Petitioner

vs.

1. The Corporation of Chennai,
rep by its Commissioner,
Ripon Building, Chennai - 600 003.
2. The Deputy Commissioner (Education),
Corporation of Chennai,
Ripon Building,
Chennai -600 003
3. The Enquiry Officer/Deputy Commissioner (Works),
Chennai Corporation,
Ripon Building,
Chennai - 600 003

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondents pertaining to the proceedings of the third respondent in his ex-parte Enquiry Report Proc.D.C.(W) PC.C.No.Spl/Inquiry/2018 dated nil communicated through the proceeding of the 1st respondent in D.C.(EDN.)P.C./1132/2016 dated 09.06.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service.

For Petitioner : Mr.K. Raja

For respondents : Mrs.Karthikaa Ashok

ORDER

The petitioner has filed the writ petition seeking to issue a Writ of Certiorarified Mandamus to call for the records of the Respondents pertaining to the proceedings of the third respondent in his ex-parte Enquiry Report Proc.D.C.(W) PC.C.No.Spl/Inquiry/2018 dated nil communicated through the proceeding of the 1st respondent in D.C.(EDN.)P.C./1132/2016 dated 09.06.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service.

2. The case of the petitioner is that the petitioner was originally appointed as Project Officer in Corporation of Chennai dated 08.03.2012 pursuant to G.O.(D) No.49, Municipal Administration and Water Supply (MC-III) Department dated 15.02.2012. Since the date of appointment, he had discharged his duties sincerely, honestly, efficiently. The first respondent also recommended to the Government to create the post of Project Officer and absorb him in the post of Project Officer vide his Recommendation in S/SRYCN.S1/004/2013 dated 18.10.2013 and SJSRYCN.S1/327/2014 dated 09.08.2014. While such was the position, a Memorandum in D.C.(Edn)P.C/24/2015 dated 13.02.2015 was issued by the 2nd respondent alleging that there was lapses in the list of beneficiaries and directed the petitioner to submit his explanation within three days.

3. Based on the Memorandum, the petitioner gave his explanation to the 2nd respondent on 16.02.2015 with all enclosures. On the same day, the 1st respondent passed an Order in D.C(Edn)P.C No.24/2015, dated 16.06.2015 relieving the petitioner from the post of Project Officer pending detailed enquiry, without looking into the petitioner's explanation. Aggrieved by the same, the petitioner filed a Writ Petition in W.P.No.34126 of 2015 and this Court by Order dated 16.08.2016 disposed of the writ petition directing the authority to complete the enquiry within a period of three months and if they failed to complete the enquiry inspite of the cooperation given by the petitioner, the petitioner will be paid subsistence allowance of 50% of the last drawn pay.

4. Aggrieved by the order, the Government preferred an appeal before this Court and the Division Bench of this Court by Judgment dated 24.11.2017 in W.A.No.339 of 2017

set aside the order of the learned Single Judge dated 16.08.2016 in respect of direction to the authority to pay subsistence allowance of 50% of the last drawn pay and also ordered Vigilance Enquiry against the writ petitioner and directed the department to complete the Departmental Enquiry Proceedings within a period of three months.

5. After the judgment of the Division Bench in W.A.No.339 of 2017, immediately, the respondents completed the enquiry without affording an opportunity to the petitioner and filed an Enquiry Report before the first respondent. Challenging the ex-parte Enquiry Report, the petitioner has filed the present Writ Petition.

6. The learned counsel for the petitioner submitted that though the petitioner challenged the Enquiry Report on the ground that the petitioner was not participated in the Enquiry due to ill-health that he was admitted in the hospital for undergoing bye-pass surgery the allegations can be disproved by producing records before the first respondent. Hence it would be suffice to permit the petitioner to produce the records before the first respondent to disprove the allegations.

7. The learned counsel for the respondents would submit that if any record is produced before the first respondent, the first respondent will consider and pass orders.

8. In view of the submissions made by the learned counsel for the petitioner, liberty is granted to the petitioner to produce the records before the first respondent to disprove the allegations levelled against him in the Enquiry Report.

9. With the above observation, the Writ Petition is dismissed. No costs.

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Sd/-
Assistant Registrar (CS)

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Sub Assistant Registrar

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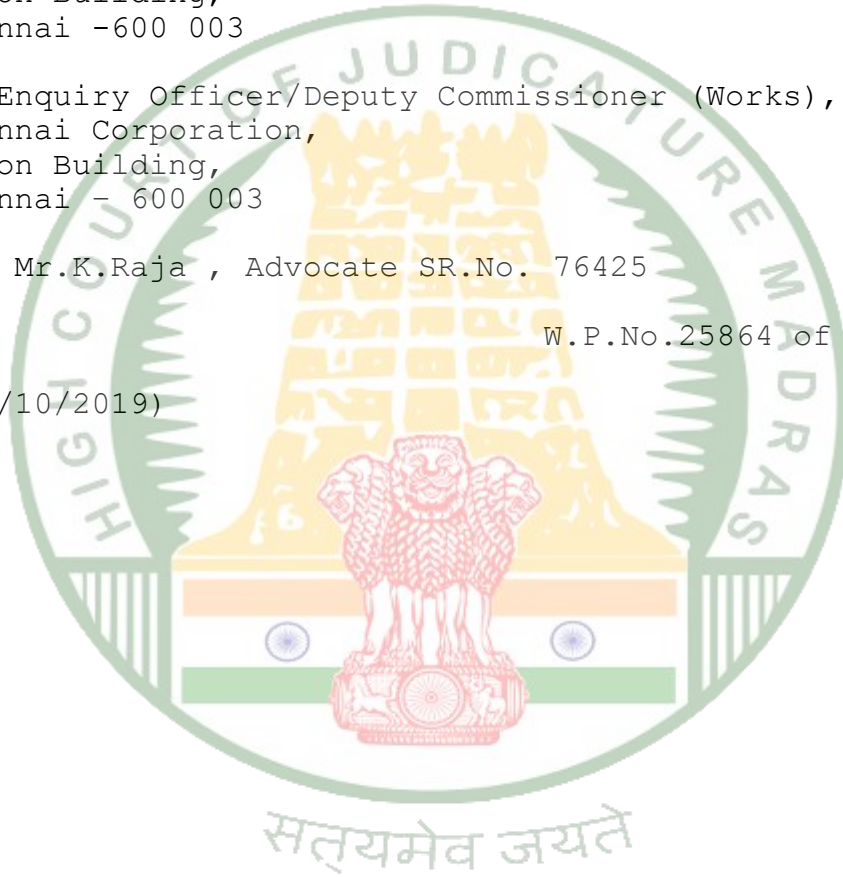
To

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 600 003.
2. The Deputy Commissioner (Education),
Corporation of Chennai,
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Chennai -600 003
3. The Enquiry Officer/Deputy Commissioner (Works),
Chennai Corporation,
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+1cc to Mr.K.Raja , Advocate SR.No. 76425

W.P.No.25864 of 2018

A.SK(09/10/2019)



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