



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.15409 of 2014

and

M.P. (MD) No.2 of 2014 and

W.M.P. (MD) Nos.16723 of 2016 and 11777 of 2017

C.Rajamani

: Petitioner

vs.

1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretaria, Chennai -9.

2.The Commissioner of Municipal Administration,
Ezhilagam, Chepauk, Chennai - 5.

3.The Commissioner,
Thoothukudi Corporation,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue Writ of Certiorari Mandamus, to call for the records relating to the impugned order of the first respondent in G.O.(P)No.63, dated 17.02.2014 and quash the same and also to direct the respondents to disburse the retirement benefits to the petitioner with interest.

For Petitioner : Mr.R.Murugappan

For R1 and R2 : Mr.R.Murugan
Additional Government Pleader

For R3 : Mr.L.Saji Bino

ORDER

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus, to quash the impugned order of first respondent in G.O.Ms.No.63, dated 17.02.2014 and to direct the respondents to disburse the retirement benefits to the petitioner with interest.



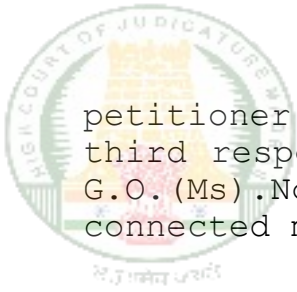
2.The petitioner joined as Revenue Inspector in the third respondent Municipality and he retired from service on 31.03.2006. While, he was in service, the third respondent, namely, the Commissioner, Tuticorin Corporation, issued a charge memo for various irregularities including misappropriation of amount collected towards water charges and on other accounts. An enquiry was conducted and based on the report of the Enquiry Officer, it is admitted that the petitioner was removed from service. It is also admitted that a criminal case was also registered against the petitioner by the Central Crime Branch, Tuticorin and a charge sheet was also filed before the learned Judicial Magistrate No.II, Tuticorin, which has been taken on file in C.C.No.98 of 2006. The petitioner was also convicted and sentenced with two years rigorous imprisonment with a fine of Rs.2,000/-. However, the appeal filed by the petitioner in C.A.No.1 of 2009 on the file of the Fast Track Court No.II, Tuticorin, was allowed. After the acquittal of petitioner from the criminal case, the petitioner was permitted to retire from service.

3.Though charges originally framed were recalled, it is admitted that consolidated charges were once again framed against the petitioner. Thereafter, the first respondent passed an order on 17.02.2014 in G.O.(P).No.63, wherein, it has been stated that the charges against the petitioner had been proved and that a further punishment was imposed to recover a sum of Rs.2000/- from the monthly pension of the petitioner for a period of three years. It is against the order imposing the punishment, the above Writ Petition is filed.

4.The learned Counsel for the petitioner submitted that vide G.O.(Ms).No.31, dated 23.02.2012, the Competent Authority is only the Heads of Department concerned. Since the impugned order has been issued by the Principal Secretary to Government, Municipal Administration, it is contended that the impugned order is without jurisdiction and that therefore, the same has to be quashed.

5.Going by G.O.Ms.No.31, dated 23.02.2012, it is categorically stated by the Government that the disciplinary cases of Officers, who does not belong to State Service, shall be dealt with by the Heads of Department concerned. Since the petitioner is the employee of the third respondent, the contention of the petitioner that the third respondent alone is competent to pass orders, is well founded and hence, this Court has no hesitation to hold that the impugned order passed by the first respondent is without jurisdiction and hence, liable to be quashed.

6.As a result, this Writ Petition is allowed and the impugned order in G.O.(P)No.63, dated 17.02.2014, passed by the first respondent is quashed. However, liberty is given to the third respondent to proceed further against the petitioner. Having regard



petitioner to raise once again the jurisdictional issue before the third respondent, when fresh action is initiated in accordance with G.O.(Ms).No.31, dated 23.02.2012. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar (CS)

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To

- 1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretaria, Chennai -9.
- 2.The Commissioner of Municipal Administration,
Ezhilagam, Chepauk, Chennai - 5.
- 3.The Commissioner,
Thoothukudi Corporation,
Thoothukudi District.

+1CC TO MR.S.SAJIBINO, Advocate Sr. No.98269
+1CC TO MR.R.MURUGAPPAN, Advocate Sr. No. 98144
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.98415

W.P. (MD) No.15409 of 2014
13.11.2019

SCR(CO)

TR(27.11.2019) 3P 7C