



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.17317 of 2017

K.Srinivasan

... Petitioner

-Vs-

The District Collector,
Virudhunagar District,
Virudhunagar.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to consider the petitioner for the withheld promotion to the post of Block Development Officer from the post of Deputy Block Development Officer in the light of the acquittal in the criminal case in Special C.C.No.4/09, pending before the Chief Judicial Magistrate, Srivilliputhur within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.C.M.Mari Chelliah Prabhu,
Additional Government Pleader.

ORDER

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents.

2.This Writ Petition is filed for a direction to direct the respondent to consider the petitioner for the withheld promotion to the post of Block Development Officer from the post of Deputy Block Development Officer, in the light of the acquittal in the criminal case in Special C.C.No.4/09, pending before the learned Chief Judicial Magistrate, Srivilliputhur.

3.The learned counsel for the petitioner submitted that the petitioner was acquitted in the criminal case in Special C.C.No.04 of 2009, on the file of the learned Chief Judicial Magistrate, Srivilliputhur on 16.05.2017.



4.The respondent filed counter affidavit. The learned Additional Government Pleader appearing for the respondent submitted that departmental disciplinary proceedings are initiated against the petitioner by issuing charge memo, dated 01.06.2010, containing three charges. Against which, the petitioner filed W.P.(MD)No.10286 of 2010. This Court stayed the departmental disciplinary proceedings, by the order dated 09.08.2010 and subsequently, by the order dated 06.06.2019, disposed of the said Writ Petition, directing the respondent to conclude the disciplinary proceedings, within a period of four months from the date of receipt of a copy of the order. The departmental disciplinary proceedings initiated against the petitioner is pending and hence, the petitioner is not entitled for the relief sought for in the Writ Petition.

5.From the materials on record, it is seen that the petitioner was issued with a charge memo, dated 01.06.2010, alleging misconduct. A criminal case was also registered and the petitioner and 14 others were charge sheeted. The petitioner filed W.P.(MD)No.10286 of 2010, challenging the charge memo issued by the department and this Court, by the order dated 09.08.2010, held that the charge sheet issued by the department and the charges in the criminal case are one and the same and that would cause prejudice to the petitioner, if the departmental disciplinary proceedings are allowed to proceed with. Subsequently, the said Writ Petition was disposed of, by the order dated 06.06.2019, directing the respondent to conclude the disciplinary proceedings, within a period of four months from the date of receipt of a copy of this order.

6.According to the petitioner, he was acquitted in the criminal case. It is well settled that even after the acquittal in the criminal case, it is open to the department to initiate departmental disciplinary proceedings on the very same set of facts. In the present case, the department disciplinary proceedings had already been initiated and the same was stayed by this Court in W.P.(MD)No.10286 of 2019, by order dated 09.08.2010 at the instance of the petitioner. Thereafter, by the order dated 06.06.2019, the said Writ Petition was disposed of, directing the respondent to conclude the disciplinary proceedings, within a period of four months from the date of receipt of a copy of the order and the same is now pending.

7.In view of the pendency of the departmental disciplinary proceedings, the request of the petitioner cannot be considered at this stage. However, it is open to the respondent to consider the case of the petitioner, after conclusion of the departmental disciplinary proceedings.



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8. In the result, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To
The District Collector,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.GP (SR-89367[F] dated 25/09/2019)

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