

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.11.2020

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.2634 of 2015

M.Karthirvel

.. Petitioner

vs.

1.The Government of Tamil Nadu
rep.by its Secretary to Government,
Municipal Administration & Water Supply
Department, Fort. St. George,
Chennai 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in relation to the proceedings issued in Roc.No.32083/2007/(OP3)V1 dated 16.12.2013 and quash the same and issue a consequential direction to the respondents to revoke the order of suspension issued in Roc.No.32083/2007/S2 dated 13.06.2007 issued by the second respondent and to reinstate the petitioner as Executive Officer at Thanthoni Grade III Municipality, Karur District with all benefits.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.S.Thangavel, Spl.G.P

ORDER

This writ petition is filed to call for the records of the proceedings issued by the 2nd respondent in PUM NO.780/A2/2005 dated 30.06.2010 and quash the same and issue a consequential direction to the respondents and to treat the period of suspension from 05.02.2005 to 12.02.2008 as a period spent on duty with all service and terminal benefits.

2.The case of the petitioner is that he entered into service as Bill Collector at Town Panchayat, Dharamangalam, Salem District in the year 1979 and thereafter he was promoted as Executive officer. While in service, he was placed under suspension by the second respondent, by his order dated 13.06.2007, on account of registration of a criminal complaint for alleged offences under the Prevention of Corruption Act, 1988. However in the criminal case, the petitioner was acquitted by judgment dated 08.10.2012 in S.C.No.122 of 2011 and thereafter, he made representation on 11.12.2012 for revocation of his suspension period. Since no action was taken on the said representation and no departmental proceeding was also pending against him, he approached this Court by filing WP.No.11254 of 2013 and this Court by dated 22.04.2013 directed the respondents to consider the representations of the petitioners therein in the light of the judgment of the Special Court judgment dated 08.10.2012 and pass appropriate orders thereon within a period four weeks from the date of receipt of copy of that order. Pursuant to the order of this Court, the second respondent by his impugned order dated 16.12.2013, rejected his representation for revocation of suspension on the ground that an appeal filed against the judgment of the learned Special Court, Trichy is pending before the Madurai Bench of this Court. Challenging the same, once again the petitioner is before this Court.

3.Learned counsel appearing for the petitioner submitted that the 2nd respondent by his proceedings dated 17.03.2011 has initiated enquiry by framing the same charge on same set of facts as in the criminal case to which the petitioner has submitted his explanation. In the meanwhile, the Enquiry Officer has submitted his report on 24.02.2012 stating that the charges leveled against the petitioner in department proceedings stood proved. Though the petitioner has submitted his explanation on the enquiry report on 25.07.2012, so far no final order has been passed. The learned counsel further submitted that though the petitioner was placed under suspension on 13.06.2007 by the 2nd respondent, on the ground that he was trapped and arrested on 12.06.2007 by the Vigilance and Anti corruption Department, however he was acquitted by the order of learned Special Judge in Special Case No.122/11 dated 08.10.2012 and against the order of acquittal, the State has preferred an appeal in C.A. No.351 of 2013 and vide order dated 22.03.2019, the petitioner stood convicted and sentenced by this Court and against the same, Special Leave Petition was filed before the Hon'ble Supreme Court, which was allowed and the petitioner was reinstated in service. In the interregnum, the petitioner attained the age of superannuation and, therefore, he was not permitted to retire. However, inspite of the acquittal of the petitioner, the respondents have not revoked the order of suspension and permitted the petitioner to retire from service and also paid

the terminal benefits and service benefits to the petitioner. Therefore, it is prayed that suitable direction may be passed to the respondents to conclude the enquiry proceedings within a stipulated time.

4. On the above contention, this Court heard the learned Special Government Pleader appearing for the respondents, who has no serious objection for a direction to the respondents to conclude the disciplinary proceedings being passed within a prescribed time frame.

5. The facts in the issue are not in dispute. The petitioner was implicated in a corruption case, which, after trial ended in his favour and against the said order, the appeal preferred before this Court ended against the petitioner, which was challenged successfully in SLP.NO.317/2019 before the Hon'ble Supreme Court. Pending the criminal proceedings, the petitioner having reached the age of superannuation, he was reinstated in service on 15.12.2016 and, thereafter, invoking the provisions of FR 56(1)(c) the service of the petitioner was retained by the respondents, as disciplinary proceedings were pending. However, it is evident from the materials available on record, that inspite of a lapse of more than five years from the initiation of disciplinary proceedings, the same has not been concluded. The petitioner cannot be left in lurch by the respondents without concluding the disciplinary proceedings and at the same time, this Court cannot come to the aid of the petitioner to give any positive direction only based on the acquittal in the criminal case, as the appreciation in the disciplinary proceedings is independent of the criminal case. Further, the services of the petitioner having been retained under FR 56 (1) (C), the respondents ought to conclude the disciplinary proceedings at an early date.

6. In such view of the matter, while this writ petition is dismissed as no positive direction as sought for could be issued, however, the respondents are directed to conclude the disciplinary proceedings and pass orders on the same within a period of three months from the date of receipt of a copy of this order and liberty is granted to the petitioner to work out his remedy in a manner known to law subject to the outcome of the disciplinary proceedings.

7.This writ petition is dismissed with the aforesaid observations and directions. However in the said circumstances, there shall be no order as to costs.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

jrs

To

1.The Government of Tamil Nadu
rep.by its Secretary to Government,
Municipal Administration & Water Supply
Department, Fort. St. George,
Chennai 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

+1 CC to Mr.R.Saseetharan, Advocate on payment of necessary
charges SR.NO.36248

+1 CC to THE GOVERNMENT PLEADER SR.NO.36501

W.P.No.2634/2015

NMI (CO)

TA-19/12/2020

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