

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.10381 of 2020 and
W.M.P.Nos.12625 & 12626 of 2020

H.Gunasekaran

... Petitioner

Vs.

1.The Secretary,
Department of Fertilizers,
Ministry of Chemicals and Fertilizers,
Government of India,
A-Wing, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110 001

2.The Chairman and Managing Director,
Madras Fertilizers Limited,
Manali, Chennai-600 068

3.The Chief Vigilance Officer,
Madras Fertilizers Limited,
Manali, Chennai-600 068

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for all relevant records relating to the impugned charge sheet issued in Memorandum No.CMD/Vig./012/2018, dated 12.10.2018 passed by the Chairman and Managing Director cum Disciplinary Authority, Madras Fertilizers Limited, Manali, Chennai-600 068, the second respondent herein and quash the same as arbitrary, unreasonable, improper, illegal, against the rules and regulations of the respondents and thereby exonerated the petitioner from all the charges of the impugned charge memo dated 12.10.2018 passed by the second respondent herein and consequently, direct the respondents to notionally grant all the promotional/elevation benefits which are all entitled to the petitioner, consequently, to sanction and disburse all the monetary, service, terminal and pensionary benefits of the petitioner namely Provident Fund Pension, Gratuity, Leave Encashment and Superannuation Fund and Pension payable to the petitioner along with the interest at the rate of 12% per annum from the date of superannuation till the date of disbursement to the petitioner as per the time stipulated by this Court.

For Petitioner : Mr.K.Venkataramani, SC for
Mr.S.Srinivasan

For Respondents: Mr.Jayesh Dolia for
M/s.Aiyar and Dolia

O R D E R

This matter is taken up through web hearing.

2. The petitioner has approached this Court, seeking the following relief:

"To issue a Writ of Certiorarified Mandamus to call for all relevant records relating to the impugned charge sheet issued in Memorandum No.CMD/Vig./012/2018, dated 12.10.2018 passed by the Chairman and Managing Director cum Disciplinary Authority, Madras Fertilizers Limited, Manali, Chennai-600 068, the second respondent herein and quash the same as arbitrary, unreasonable, improper, illegal, against the rules and regulations of the respondents and thereby exonerated the petitioner from all the charges of the impugned charge memo dated 12.10.2018 passed by the second respondent herein and consequently, direct the respondents to notionally grant all the promotional/elevation benefits which are all entitled to the petitioner, consequently, to sanction and disburse all the monetary, service, terminal and pensionary benefits of the petitioner namely Provident Fund Pension, Gratuity, Leave Encashment and Superannuation Fund and Pension payable to the petitioner along with the interest at the rate of 12% per annum from the date of superannuation till the date of disbursement to the petitioner as per the time stipulated by this Court."

3. The case of the petitioner is as follows:

3.1 The petitioner was appointed on 19.03.2013 as General Manager (P&A) in the second respondent company, which is a Government of India undertaking. After rendering more than 7 years of service, he had retired from service with effect from 30.06.2020. In regard to his discharge of duties certain acts of misconduct were noticed by the Management and accordingly, the petitioner issued with a charge memorandum dated 12.10.2018, alleging 11 acts of misconduct and in pursuance of the said charge memorandum, an enquiry was initiated.

3.2 On conclusion of the enquiry, a report was submitted by the enquiry officer on 15.04.2019 holding that only charge No.9 alone was proved while all other charges were not proved. The petitioner was directed to furnish his reply to the enquiry report and in response to the same, the petitioner also submitted his reply on 03.05.2019.

3.3 In the meanwhile, the petitioner was also issued with a call letter for interview to the post of Director (Technical), Fertilizers & Chemicals Travancore Limited, advising the petitioner to participate in the interview on 07.08.2020. While so, the apprehension of the petitioner is that though disciplinary action initiated against him by the disciplinary authority has been concluded by the submission of the enquiry report and also reply by the petitioner to the report, no order has been passed by the disciplinary authority for more than a year. In the absence of final order by the disciplinary authority, the consideration of the petitioner for appointment of the post of Director may get affected and in the said circumstances, the petitioner is before this Court.

4. Mr.K.Venkataramani, learned Senior counsel appearing for the petitioner submitted that although the writ petition has been filed, challenging the charge memorandum dated 12.10.2018, he would not press the challenge as it is, but however, he submitted that the petitioner would be satisfied if a direction is issued to the disciplinary authority to pass final orders in pursuance of the charge memorandum as admittedly, the enquiry report was submitted more than a year ago and a reply was also submitted by the petitioner in response to the enquiry report.

5. Notice was issued to the respondents and in response to the same, Mr.Jayesh Dolia, learned counsel entered appearance for the respondents and a detailed counter affidavit has also been filed.

6. Although in the counter affidavit, the averments contained in the affidavit filed by the petitioner, have been specifically refuted, this Court is not inclined to go into those issues for the simple reason that the learned Senior counsel appearing for the petitioner himself has agreed for disposal of the Writ Petition and to direct the disciplinary authority to pass final orders in the disciplinary proceedings within a time to be stipulated by this Court.

7. The learned counsel for the second respondent company submitted that the respondent company would have no objection if such direction is issued and a reasonable time is granted for the disciplinary authority to pass final orders in the matter by this Court without considering the merits of the petitioner's claim in the Writ Petition.

8. In view of the above narrative, without considering the merits and demerits of the rival claims of the parties, the Writ Petition is disposed of as under:

(a) The second respondent, who is the disciplinary authority in respect of the petitioner's position held by him, is directed to pass final orders in pursuance of the disciplinary proceedings initiated against him as consequence

of a charge memorandum dated 12.10.2018 on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

(b) While passing final orders in the disciplinary proceedings, the second respondent is also directed to take into consideration the reply of the petitioner to the enquiry report and also the findings of the enquiry report which according to the learned Senior counsel appearing for the petitioner, substantially in petitioner's favour.

(c) No costs. Consequently, connected miscellaneous petitions are closed.

dn/suk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
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2.The Chairman and Managing Director,
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3.The Chief Vigilance Officer,
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Manali, Chennai-600 068

+1cc to Mr.S. Srinivasan, Advocate, S.R.No.

SKS (CO)
EU 31.08.2020

W.P.No.10381 of 2020