

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.10383 of 2020 and
W.M.P.Nos.12628 & 12630 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./0054/2020, dated 21.05.2020 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 direct the respondents from exonerate the petitioner from all the charges of the impugned charge memo dated 21.05.2020 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 alongwith 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.Iyer and Dolia

O R D E R

This matter is taken up through web hearing.

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

"To issue a a Writ of Certiorarified Mandamus to call for all relevant records relating to the impugned charge sheet issued in Memorandum No.CMD/Vig./0054/2020, dated 21.05.2020 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 direct the respondents from exonerate the petitioner from all the charges of the impugned charge memo dated 21.05.2020 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 irregularities were noticed by the Management towards the grant of road transport contract. In the said circumstances, a charge memorandum was issued on 21.05.2020 containing 5 articles of charges. In pursuance of the charge memorandum, enquiry proceedings were commenced on 26.06.2020.

3.2.The petitioner submitted his representation on 17.06.2020 requesting for early conclusion of the disciplinary proceedings, as he was due for superannuation on 30.06.2020. In the meanwhile, the petitioner received a call letter for appointment to the post of Director (Technical), Fertilizers & Chemicals Travancore Limited, advising him to attend interview on 07.08.2020.

3.3. In these circumstances, pendency of the disciplinary action against him would be probably being an impediment to his consideration for appointment of Director, he has come before this Court, challenging the charge memorandum, dated 21.05.2020.

4. The learned Senior Counsel, who appeared for the petitioner submitted that though the writ petition is assailing the charge memorandum issued against the petitioner dated 21.05.2020, on instructions, he submitted that the petitioner would be satisfied if a direction is issued to the second respondent to conclude the enquiry proceedings at an early date so that the petitioner would know where he stands, while he being considered for appointment to the post of Director.

5. Notice was issued to the respondents and Mr.Jayesh Dolia, learned counsel entered appearance for the second and third respondents and a detailed counter affidavit has also been filed. In counter affidavit, detailed averments have been mentioned stating that enquiry proceedings are underway and the petitioner is given due opportunity to defend the charges. In the counter affidavit, it is also averred that already two hearings had taken place on 02.07.2020 and 08.07.2020 through Video Conferencing and the petitioner had also attended the proceedings. In the counter, it is also stated that six months time is required for completing the disciplinary proceedings and for the disciplinary authority to pass final orders in the matter.

6. At this, the learned Senior counsel for the petitioner submitted that the petitioner's anxiety for early conclusion of the disciplinary proceeding is justified in view of his further career prospects and any inordinate delay in concluding the disciplinary proceedings, would hamper the career growth of the petitioner.

7. In consideration of the request of the learned Senior counsel for the petitioner and also the submission of the learned counsel for the respondent company that a reasonable time to be given for conclusion of the disciplinary proceedings, this Court, in all fairness is of the view that four months time is sufficient enough to complete the disciplinary proceedings against the petitioner.

8. Accordingly, the Writ Petition is disposed of as under:

(a) The second and third respondents are directed to conclude the disciplinary proceedings initiated against the petitioner in pursuance of the charge memorandum dated 21.05.2020 and pass final orders in the matter on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. Before passing final orders in the disciplinary proceedings, the Management shall duly conform to the established principles of natural justice.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dn/suk

To

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

+ 1 cc to Mr.S. Srinivasan, Advocate SR.NO..26590

W.P.No.10383 of 2020

SKS (CO)
EU 31/08/2020