

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.9098 of 2014
and
MP Nos.1 & 2 of 2014

G.Ramesh ... Petitioner

-vs-

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.

2. The Commissioner,
Chennai City Municipal Corporation,
Chennai - 600 003.

..... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of suspension issued by the 1st respondent in G.O. (2D) No.32 MAWS Department, dated 24.03.2014 and quash the same and consequently direct the 1st respondent to permit the petitioner to retire from service without prejudice to the pendency of the disciplinary proceedings.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.S.Thangavel,
Spl. Government Pleader for R1
Mrs.Karthika Ashok for R2

ORDER

(This case has been heard through video conference)

This writ petition has been filed to quash G.O. (2D) No.32 MAWS Department, dated 24.03.2014 issued by the 1st respondent and for a consequential direction to permit the

petitioner to retire from service without prejudice to the pendency of the disciplinary proceedings.

2. The case of the petitioner is that he was appointed as Assistant Engineer in the second respondent Corporation and on subsequent promotions, he was posted as Superintending Engineer on 23.09.2011. Due to registration of a criminal case in Crime No.4 of 2006, he was placed under suspension and after conducting enquiry, the suspension order was revoked. On the basis of seniority, he is eligible for promotion to the post of Chief Engineer. Based on recommendation of the council, he submitted a detailed representation, dated 19.02.2014 to the respondents to consider him for the post of Chief Engineer in the vacant post. As the same was not considered, he filed W.P. No.5989/2014 and this Court, order dated 05.03.2014 issued directions to the first respondent to consider the case of the petitioner in the light of the Resolution dated 22.05.2013 in No.350 of 2013 passed by the Council, by indicating the date of retirement of the petitioner as 31.03.2014. Even though the aforesaid order of this Court was communicated to the 1st respondent on 10.03.2014, instead of promoting the petitioner, he was punished and placed under suspension vide order dated 24.03.2014, which is impugned in this petition.

3. The learned counsel for the petitioner submits that the impugned order issued by the first respondent is untenable and unjustified one, without any application of mind. Further, he would submit that for the aforesaid criminal case, suspension order was issued, which was thereafter revoked during the year 2011 itself. Once again for the same crime, the impugned order was issued, which is improper. Hence, the impugned order is liable to be quashed.

4. Heard Mr.S.Thangavel, Special Government Pleader appearing for the first respondent and Ms.Karthika Ashok, learned counsel for the second respondent.

5. The learned Special Government Pleader appearing for the first respondent would vehemently oppose that the charges framed against the petitioner are grave in nature. Further, he submitted that in obedience to the order of this Court, the request of the petitioner was considered and rejected by the Government vide letter No.15337/MC3/2013-2, dated 25.03.2014. Moreso, on the date of retirement, disciplinary proceedings against the petitioner has not reached finality. Hence, the contention raised by the petitioner that he has been suspended again for the same crime is incorrect. Accordingly, he oppose to quash the order of the first respondent.

6. A perusal of the materials found in the typed set reveals that initially the order of suspension was revoked without prejudice to the disciplinary proceedings against the petitioner. From the same, it is evident that the disciplinary proceedings taken against the petitioner had not reached finality. In such a backdrop, based on the order passed by this Court, while the representation of the petitioner was considered and rejected on account of the pending disciplinary proceedings, the disciplinary proceedings was proceeded with and, therefore, it cannot be said that the mere revocation of suspension of the petitioner has enured in closure of the disciplinary proceedings. Therefore, in continuation of the disciplinary proceedings and retain the employer employee relationship, the petitioner having been once again kept under suspension, the impugned order cannot be said to be bad in law. This Court, on the materials is of the considered view that no interference is called for with the impugned order of suspension.

7. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.

2. The Commissioner,
Chennai City Municipal Corporation,
Chennai - 600 003.

+1cc to M/s.Karthikaa Ashok, Advocate Sr.35710
+1cc to the Government Pleader Sr.35469

W.P. No.9098 of 2014

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srg 04/12/2020