



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2020

CORAM:

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) NO.10621 of 2012

J.Moses Devanand

: Petitioner

.vs.

The Commissioner,
Nagercoil Municipality,
Nagercoil.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings No.18070/89/C1, dated 4.10.1995 of the respondent and served under the Right to Information Act by proceedings in Na.Ka.NoC1/11624/2012, dated 29.5.2012 and quash the same and direct the respondent to pass final order in respect of charge memos, dated 4.7.2005 and 9.4.2011 and award due promotions and monetary benefits eligible to the Petitioner expeditiously.

For Petitioner

: Mr.C.Godwin

For Respondent

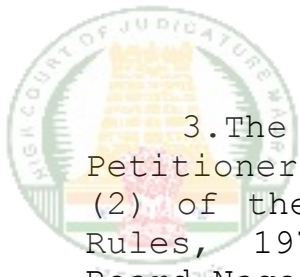
: Mrs..S.Srimathy

Special Government Pleader

O R D E R

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings of No.18070/89/C1, dated 4.10.1995 of the respondent and served under the Right to Information Act by proceedings in Na.Ka.NoC1/11624/2012, dated 29.5.2012 and direct the respondent to pass final order in respect of charge memos dated 4.7.2005 and 9.4.2011 and award due promotions and monetary benefits eligible to the Petitioner expeditiously.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



3.The respondent has framed four charges against the Petitioner in Na.Ka.No.1761/2005/C1, dated 4.7.2005 under Rule 8 (2) of the Tamil Nadu Municipal Servants (Discipline and Appeal) Rules, 1970. After referring the Petitioner to the Medical Board, Nagercoil, the Medical Board has given its opinion ratifying the medical leave from 23.8.2003 and issued fitness to rejoin duty on 31.7.2008. and he joined duty only on 5.7.2008. The Petitioner was absent in the year 2003 without submitting any leave application and proper enquiry was not conducted and the same was not yet completed, as the Petitioner has filed this Writ Petition and has given a requisition, dated 31.7.2012 stating that the present Writ Petition is pending before this Court for disposal and no further order has been passed till date.

4.From 1990, he was a Bill Collector and he was placed under suspension for misappropriation of the property tax, the Petitioner found in the office in drunken mood on 19.4.1990 and he was causing confusion in the office by using unparliamentary words. He was allowed to join duty on 15.3.1991 without prejudice to take disciplinary action against the Petitioner. Again, the Petitioner has misappropriated the water charge collection amount of Rs.3191/- on 19.7.1993 and found absconding. Hence the Petitioner was placed under suspension w.e.f. 19.7.1993. A.N. Disciplinary action was taken on all the charges in File No.18070/89/C1, dated 4.10.1995 and after following all the formalities, final order was passed reverting the Petitioner as Office Assistant permanently. As the Petitioner was found in drunken mood and quarrelled with the office staffs the Petitioner was permanently posted as Office Assistant.

5.The Petitioner has now challenged the same and sought to quash the proceedings in File No.18070/89/C1, dated 4.10.1995 and served under the Right to Information Act by proceedings in Na.Ka.NoC1/11624/2012, dated 29.5.2012 and direct the respondent to pass final order in respect of charge memos, dated 4.7.2005 and 9.4.2011 and award due promotions and monetary benefits eligible to the Petitioner.

6.The Petitioner as seen, has misappropriated the Government funds twice and he was revert back as Office Assistant permanently and now he has challenged the said orders of the year 1995 only in the year 2012. As the said enquiry is pending as on date, the Petitioner has requested the said officers not to continue with the said enquiry, When there was no such order passed by this Court and only notice was issued to the Petitioner by this Court, but the said municipality has not proceed with the enquiry further and waiting from 2012 to 2020, without passing final orders. It shows the inaction on the part of the Commissioner of the said



Municipality that without even pursuing the matter properly and without verifying with this Court that whether any stay order has been granted and when no such stay order has been granted in the matter, they have to file a counter affidavit and get along with the matter.

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7. In view of the above factual position, the respondent/The Commissioner, Nagercoil Municipality is directed to appoint an enquiry officer, if not already appointed and to conduct the enquiry after giving an opportunity of personal hearing to the Petitioner and others concerned, if any and complete the enquiry in accordance with law, within a period of three months from the date of initiation of enquiry proceedings. The Petitioner is also directed to cooperate with the enquiry, without taking further adjournments in the matter.

8. With the above observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

To

The Commissioner,
Nagercoil Municipality,
Nagercoil.

+1 CC to M/s.C.GODWIN, Advocate (SR-9877[F] dated 03/03/2020)

+1 CC to M/s.S.SRIMATHI, Advocate (SR-9954[F] dated 04/03/2020)

ORDER MADE IN
W.P(MD)NO.10621 of 2012
03.03.2020

AE (17.03.2020) 3P 4C