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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.17609 of 2008

L.Sukumaran

...Petitioner

Vs.

1. The Secretary to Government
Finance (LF) Department
Fort St. George, Chennai-9
2. The Director of Local Fund Audit
IV Floor, 'Kuralagam'
Chennai - 108

...Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records of the 1st respondent in connection with the impugned order passed by him in GO (2D) No.27 Finance (Local Fund) Department dated 17.3.2008 and quash the same.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.S.Sivakumar

For Respondents : Mr.C.Selvaraj
Government Advocate for R1 and R2

ORDER

Mr.K.Venkataramani, learned Senior Counsel appearing on behalf of counsel on record for sole writ petitioner and Mr.C.Selvaraj, learned State counsel on behalf of both the respondents are before this Virtual Court.

2. Captioned writ petition has been filed assailing 'G.O. (2D) No.27, Finance (Local Fund) Department dated 17.3.2008 ' (hereinafter 'impugned order' for the sake of convenience and clarity) vide which a punishment of stoppage of increment for one year with cumulative effect was inflicted on the writ petitioner and some other two delinquents.



3. One of the co-delinquents Mr.M. Krishna Prasad filed W.P (MD)No.5044 of 2008 and after full contest, another Hon'ble single Judge of this Court in and by order dated 01.04.2013 allowed the writ petition by following the view taken by another Hon'ble single Judge in W.P.No.10648 of 2008 (order dated 16.04.2010). Relevant paragraphs in 01.04.2013 order of another Hon'ble single Judge in W.P(MD)No.5044 of 2008 are Paragraphs 13 and 14, which read as follows:

'13. As held by this Court in catena of decisions, the delay in concluding the disciplinary proceedings causes serious prejudice to an employ and on that ground itself, this Court has exercised discretion and quashed the disciplinary action which are unnecessarily prolonged for no fault of the employee. Hence for all the above reasons, this Court is inclined to follow the decision rendered in W.P.No.1068 of 2008.

14. The writ petition is allowed as prayed for and the impugned proceedings are quashed. No costs. Consequently, the connected Miscellaneous Petitions is closed.'

4. Prayer in W.P(MD)No.5044 of 2008 reads as follows:

'To call for the records of the first respondent's proceeding in Government Order (2D) No.28, Finance (Local Fund) Department dated 17.3.2008 and quash the same.'

5. A perusal of the prayer will reveal that the same impugned order i.e., impugned order that is assailed in the captioned writ petition has been assailed in W.P(MD)No.5044 of 2008 also by a co-delinquent. Learned State counsel, on instructions, submits that the aforementioned order of the Hon'ble single Judge has been given legal quietus. In other words, there is no intra-court appeal. On instructions, learned State counsel also submits that the captioned writ petition is directly and squarely covered by order dated 01.04.2013 made in W.P.No.5044 of 2008. To be noted, this Court is informed that there is a typographical error in Paragraph 13 extracted and reproduced supra, namely W.P.No.1068 of 2008 should read as W.P.No.10648 of 2008.

6. In the light of the narrative thus far, as a matter of judicial discipline, it follows as a sequitur that captioned writ petition also is to be allowed.



Captioned writ petition is allowed and order dated 17.3.2008 made in GO (2D) No.27 Finance (Local Fund) Department is set aside. There shall be no order as to costs.

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Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Secretary to Government
Finance (LF) Department
Fort St. George, Chennai-9
2. The Director of Local Fund Audit
IV Floor, 'Kuralagam'
Chennai - 108

+1 CC to M/s.S.Sivakumar, Advocate, Sr 40997.

+1 CC to The Government Pleader, Sr 41483.

W.P.No.17609 of 2008

SJ(CO)

LS(21/09/2021)