

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.25123 of 2005

G.Gurusamy

... Petitioner

-Vs-

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Public Works Department
Fort St.George, Chennai-9.

2. The Chief Engineer (General)
Public Works Department, Chepauk
Chennai-5.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned G.O.(3D) No.6 Public Works department dated 12.2.2004 passed by the 1st respondent herein and quash the same and further direct the 1st respondent to pay all the arrears with interest and award exemplary cost.

For Petitioner : No appearance

For Respondents : Mr.K.Magesh
Special Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the impugned G.O.(3D) No.6 Public Works department dated 12.2.2004 passed by the 1st respondent herein and quash the same and further direct the 1st respondent to pay all the arrears with interest and award exemplary cost.

2. The petitioner was appointed as Assistant Engineer in the respondent Department in the year 1969. Subsequently, he was promoted as Executive Engineer in the year 1990. At that time, in the cadre of Superintending Engineer, which was equivalent to the General Manager in Tamil Nadu Energy Development Agency, the petitioner was deputed to the said Agency as General Manager and accordingly he worked there for three years on deputation. After deputation period, the Government issued Government Order to repatriate him to the parent department and in the result, two times postings were given as Deputy Superintending Engineer (Electrical Circle), Chennai and Deputy Superintending Engineer, Electrical

Circle, Madurai. But, the petitioner failed to join the said posts in the allotted time in the parent Department and therefore disciplinary proceedings was initiated against the petitioner. Enquiry was conducted, charges were proved and in view of the proven charges, the disciplinary authority, by the impugned order dated 12.02.2004 in G.O.(3D) No.6, Public Works Department, imposed the punishment of cut of Rs.150/- per month from the pension admissible to him for a period of three years.

3. Challenging the said order of punishment, this writ petition has been filed with the aforesaid prayer.

4. When the case is called today for hearing, there is no representation for the petitioner. However, since it is a matter of 2005, this Court wants to dispose the same on merits based on the available records and after hearing the learned Special Government Pleader appearing for the respondents.

5. Learned Special Government Pleader appearing for the respondents has relied upon the following averments made in the counter affidavit filed by the respondents.

" 12. With regard to the averments made in ground (H) of the affidavit. It is submitted that the petitioner was the senior most Electrical Engineer in Tamil Nadu Engineering Service of Public Works Department. Hence, he was deputed to the Tamil Nadu Energy Development Agency for foreign service terms and conditions for a period of 3 years as per G.O.(D) No.32, Public Works Department dated 13.02.95. He joined the said agency as General Manager on 15.02.95 A.N. On completion of three years on 13.02.98 A.N., he was relieved from the deputation post and posted as Deputy Superintending Engineer, Electrical Circle, Chennai in G.O.(Rt) No.146, Public Works Department, dated 07.04.98. But he had not rejoined duty in the parent department and, therefore the petitioner was issued with another posting orders, posting him as Deputy Superintending Engineer, Electrical Circle, Madurai in G.O.(Rt) No.580, Public Works Department, dated 11.12.98. He had not obeyed and rejoined duty in the new station. Therefore, he was requested in Chief Engineer's (General) letter dated 16.06.99 to assume charges in the new station as Deputy Superintending Engineer, Electrical Circle, Madurai. He was also categorically informed that if he fails to join duty at Madurai, disciplinary action will be proceeded against him. But he had not joined duty

in the new station. As the post of Deputy Superintending Engineer, Public Works Department, Electrical Circle, Madurai was vacant and much difficulties were experienced by the department in dealing with several issues, the petitioner had not joined duty upto 31.08.99. Eventhough the petitioner was reverted to Public Works Department and issued with posting orders, he had not come forward to join duty in the parent Department viz., Public Works Department, and stayed away. Therefore, disciplinary action was proceeded against him for the said irregularities committed by the petitioner. After following the procedures laid down in the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the Government after examining the charge sheet papers, findings of inquiry officer report, carefully and independently with the connected records of the case and in consultation with the Tamil Nadu Public Service Commission issued final orders imposing the punishment of cut in pension of Rs.150/- per month from the admissible pension for 3 years for the charges held proved against the petitioner. The petitioner a senior officer has unwantedly abused the administrative head by way of using unparliamentary words is highly regrettable and Hon'ble Court may pass suitable orders. Therefore, the contention of the petitioner is not correct and is not sustainable either in law or on facts."

6. After relying upon the said averments, learned Special Government Pleader would submit that, since it was a disciplinary proceedings which ended in the punishment of cut in pension of Rs.150/- per month for three years and that punishment also had been undergone by the petitioner, as he had already superannuated and as of now nothing survives in the writ petition.

7. On the other hand, on merits also, the learned Special Government Pleader would submit that, absolutely there could be no reasoning for interfering with the punishment imposed against the petitioner, since definite charges were framed against him as he has not joined the parent department after the deputation period was over and therefore the said charges were enquired by the Enquiry Officer, where, opportunity was given to the petitioner and ultimately the charges framed against him were proved. In the result, the punishment ie., only a minimum punishment of cut in pension at Rs.150/- per month for a period of three years, was imposed and that punishment also had been undergone by the petitioner, therefore on merits also there could be no plausible reason on

the part of the petitioner to seek for interference in the impugned order.

8. I have considered the submissions made by the learned Special Government Pleader appearing for the respondents and have perused the materials placed on record.

9. As has been rightly pointed out by the learned Special Government Pleader, definite charges were framed against the petitioner, pursuant to which, enquiry was conducted, where charges were proved and punishment was awarded against the petitioner and the punishment also was only cut in pension of Rs.150/- per month for three years. The punishment also had been undergone by the petitioner as he had already attained superannuation and therefore nothing survives in this writ petition for further adjudication.

10. Even otherwise, there is no infirmity in the said procedures adopted by the respondents in conducting the disciplinary proceedings to conclude with the punishment, which is impugned in this writ petition. Therefore, this Court does not want to interfere with the punishment imposed and executed by the respondents. In that view of the matter, this writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary to Government,
Public Works Department
Fort St.George, Chennai-9.
2. The Chief Engineer (General)
Public Works Department, Chepauk
Chennai-5.

W.P.No.25123 of 2005

AAB(CO)
CSR 22.03.2021