

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 30.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
W.P.No.16685 of 2020
and W.M.P.No.20684 of 2020

P.Eswaran

.. Petitioner

Versus

1.Union of India

rep.by the Secretary to Government of India
and the President, Governing Council
Department of Chemicals and Petrochemicals
Ministry of Chemicals and Fertilisers
Government of India, Shastri Bhavan
New Delhi 110 001.

2.The Director General / Disciplinary Authority
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,
Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

3.Dr.S.K.Nayak
Director General / Disciplinary Authority
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,
Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

4.The Inquiry Officer,
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,
Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

5.Shri Shrikant Y Shirali, Inquiry Officer,
Principal Director & Head
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,

Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

6.The Presenting Officer,
Principal Director (NP)
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,
Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

7.Shri.R.Rajendran, Presenting Officer
Principal Director (NP)
Central Institute of Plastics Engineering and
Technology-CIPET
Department of Chemicals and Petochemicals,
Ministry of Chemicals & Fertilizers
Government of India, Head Office, Guindy
Chennai 600 032.

8.The Registrar,
Central Administrative Tribunal
Madras Bench, High Court Compound
Chennai. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 8th Respondent in connection with the impugned order passed by him in O.A.No. 310/00262/2020 dt 20.3.2020 and quash the same and direct the 4th Respondent not to proceed with the oral enquiry pursuant to the Charge Memo issued in CIPET/HO/DIS/PE_CHN/MEMOII/2019 dated 24/12/2019, issued by the 2nd Respondent pending disposal of OA No.310/00262/2020 dt 20.3.2020, pending on the file of Central Administrative Tribunal, Madras Bench and grant such other further relief as this Honourable Court may deem fit in the circumstances arising out of the case.

For Petitioner :Mr.K.Venkataramani
Senior Counsel for
Mr.M.Muthappan

For RR1 : Dr.G.Babu
Central Government Standing Counsel

For RR 2 and 7 : Mr.Akhil Bhansali

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner had entered the services of Central Institute of Plastics Engineering and Technology-CIPET as Assistant Technical Officer on 08.05.1992 and got his promotion as Technical Officer, Hyderabad on 04.01.1995 and re-designated as Senior Technical Officer, Mysore and further promoted as Manager (Technical) on 18.01.2002 and as Chief Manager (Technical) on 01.06.2012 and promoted as a Director and Head, HLC, Chennai on 02.05.2016 and thereafter reverted and redesignated as Chief Manager (Technical), Chennai on 29.11.2016 and the petitioner was suspended from service on 25.01.2019, in connection with the initiation of disciplinary proceedings and contemplation of enquiry into grave charges and he was imposed with a punishment of compulsory retirement from service on 24.01.2020.

2. The petitioner was issued with Charge Memo on 18.06.2019 and on pendency of the same, he was issued with yet another Charge Memo dated 14.12.2019 and after conclusion of the departmental proceedings, the charges framed against the petitioner came to be proved in respect of the Charge Memo dated 18.06.2019 and it was granted with a copy of the Enquiry Officer's Report, calling upon his explanation.

3. The primordial grievance expressed by the learned Senior Counsel appearing for the petitioner is that the said disciplinary proceedings had ended in imposition of order of compulsory retirement and on appeal, it was also came to be confirmed vide order dated 31.07.2020. It is not open to the disciplinary authority to issue fresh Charge Memo, for the reason that there is an order of compulsory retirement, which came to be confirmed by the appellate authority in the form of rejecting the appeal and there is cessation of master and servant relationship and hence further disciplinary proceedings could not be followed and however, the Tribunal, on pendency of the Original Application, in and by which, the Charge Memo dated 14.12.2019, came to be challenged, has not inclined to grant interim relief and therefore, he is constrained to approach this Court by filing this Writ Petition.

4. The respondents 2 to 7 has filed the counter affidavit dated 17.02.2021 and took a stand that in the light of Rule 40 of the Administrative Manual of CIPET, there can be Continuation of Disciplinary Proceedings after retirement and whatsoever points urged by the learned Senior Counsel appearing for the petitioner have to be adjudicated and decided by the Central Administrative Tribunal and prays for dismissal of this Writ Petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. It is a well settled position of law that once there is an order of Compulsory Retirement and it has been given effect to, there is cessation of master and servant relationship and however, Rule 40 of Administrative Manual of CIPET, makes it clear that there can be Continuation of Disciplinary Proceedings after retirement. In the considered opinion of this Court, the legality or otherwise of the Charge Memo dated 14.12.2019, which is the subject matter of challenge in O.A.No.262/2020, cannot be gone into by this Court in this Writ Petition, for the reason that the findings / observations, with regard to the merits of the pending application may affect either of the parties and it is also brought to the knowledge of this Court that the counter affidavit in the main Original Application is yet to be filed and therefore, this Court directs the respondents 2 to 7 to file counter affidavit before the Tribunal, in the light of the stand taken by them in the counter affidavit dated 17.02.2021, filed before this Court, within a period of two weeks from the date of receipt of a copy of this order / uploading of the order in the Website and upon filing of the same, the Tribunal is requested to accord priority for the early disposal of the Original Application.

7. The Writ Petition is disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

/TRUE COPY/

Sub-Assistant Registrar

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To

- 1.The Secretary to Government of India
and the President, Governing Council
Union of India
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Ministry of Chemicals and Fertilisers
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New Delhi 110 001.
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Director General / Disciplinary Authority
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Principal Director (NP)
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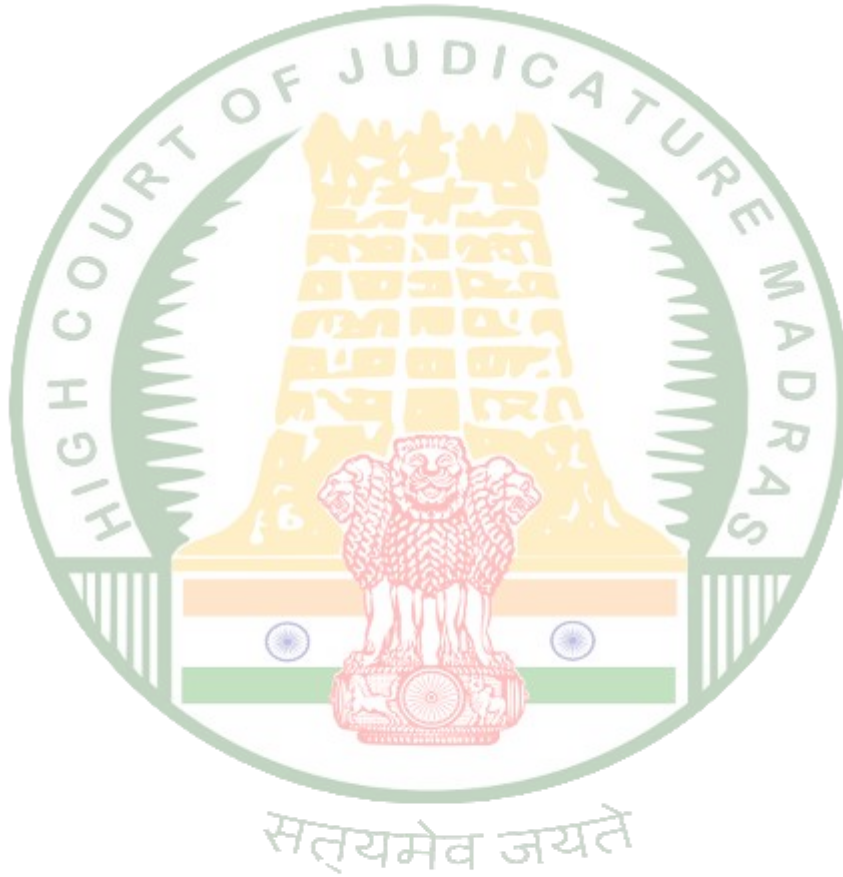
8.The Registrar,
Central Administrative Tribunal
Madras Bench, High Court Compound
Chennai.

+1CC TO MR.M.MUTHAPPAN, ADVOCATE, SR.NO. 21110

+1CC TO M/S.BFS LEGAL,ADVOCATE, SR.NO. 20827

W.P.No.16685 of 2020

PCH (CO)
KKN 27/04/2021



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