

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34890 of 2014

J.Nageswaran

...Petitioner

Vs

1. The Chief Commissioner for persons with Disabilities,
Sarojini House,
No.6, Bhagwan Dass Road,
New Delhi - 110 001.
 2. The Chief Works Manager (Furnishing)
ICF, Villivakkam,
Chennai - 600 038.
 3. The General Manager,
Personnel Branch
ICF, Villivakkam,
Chennai - 600 038.
- ...Respondents

(R2 & R3 are impleaded as per the order of this court dated 22.01.2021 in MP.No.1 of 2015)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent herein to pass final order on the complaint dated 20.07.2014 preferred by the petitioner under sections 47 and 62 of the persons with disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995 within the time that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.K.Raja

For Respondent : Mr.G.Venkatesan (R1)

Central Government Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the first respondent and also perused the materials placed before this Court.

2.The prayer made in this writ petition is to direct the respondent to pass final order on the complaint dated 20.07.2014 preferred by the petitioner under sections 47 and 62 of the persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, within a time frame to be stipulated by this Court.

3.According to the petitioner, he was appointed as Khalasi on 26.07.1984, in ICF, Chennai. Subsequently, in recognition of his meritorious service and outstanding performance in sports, he was promoted as Skilled Grade III / Fitter (MW) on 29.08.1986 and further promoted as Skilled Grade II / Fitter (MW) in the year 1991, besides granting two advance increments. It is the further case of the petitioner that on 19.02.1994, he applied for leave for one year with effect from 03.03.1994, which was granted. However, his further extension of leave for one more year, was rejected, vide order dated 04.07.1995 and he was directed to report to duty. Due to ill health, he was unable to join duty. While so, he was issued with a charge memo dated 07.06.1995 for unauthorised absence and was ultimately, dismissed from service. Stating that in view of the mental disorder, he was not able to attend duty from 03.03.1995, he made a representation to the respondents 2 and 3 on 05.03.2014 requesting to recall the order of dismissal from service passed against him and reinstate him in service. Since the said representation was not considered, he filed a complaint dated 20.07.2014 to the first respondent, which was kept pending without any action. Hence, this writ petition.

4.Upon notice, the first respondent filed a counter affidavit, stating that the petitioner's complaint dated 20.07.2014 was forwarded to the Integral Coach Factory, Chennai on 19.01.2015 mentioning Section 47(1) and 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 for submission of his comments; and the Integral Coach Factory, vide letter dated 25.02.2015 submitted their comments in the matter, which were forwarded to the petitioner on 17.04.2015 for giving his comments / rejoinder within 15 days from the date of receipt of the communication; however, the petitioner did not submit comments / rejoinder in the matter.

5.In the light of the averments so made in the counter affidavit filed by the first respondent, this Court, in order to provide an opportunity to the petitioner, directs him to submit his reply / rejoinder to the comments forwarded by the Integral Coach Factory, Chennai vide letter dated 25.02.2015, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the respondent concerned shall

consider the same, on merits and in accordance with law, and pass appropriate orders with regard to the claim of the petitioner for recalling the dismissal order and reinstating him in service, within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stand disposed of. No costs.

Sd/-
Assistant Registrar (CS IX)

// True Copy//

Sub Assistant Registrar

msv

To

1. The Chief Commissioner for persons with Disabilities,
Sarojini House,
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+1cc to Mr.K.Raja, Advocate, SR.No.3762

W.P.No.34890 of 2014

RK (CO)
RGA (14/07/2021)

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