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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 18511 of 2014

R.Raju

..Petitioner

vs.

1.The Chennai Corporation
Rep. By its Commissioner,
Ripon Buildings,
Chennai -600003.

2.The Zonal Officer,
Zone -V, Chennai Corporation
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 relating to the order No. Ma.A.5.Na.Ka.No. C1/11100/06 dated 29.6.2010 issued by the 2nd respondent read with the appellate Order No. Ma.A.5 Na. Ka.No.C1/11100/06 dated 17.11.2010 issued by the 1st respondent quash the same as being illegal arbitrary and unconstitutional and consequently direct the 1st respondent Corporation to grant the terminal benefits due to the petitioner after counting his service with all attendant service benefits with interest.

For Petitioner	: M/s.S.C.Chezhiyan
For Respondents	: M/s.M.Dhanisha
	For Mrs.Karthika Ashok,
	Standing Counsel
	for Corporation of Chennai.

O R D E R

The writ petitioner had joined in the respondent-Corporation on 25.04.1974 as Sanitary Worker. On 25.06.2004 he was suspended from service due to arrest on the ground of accepting illegal gratification along with another person namely V. Subramani. The Petitioner was arrayed as second accused in C.C.No. 3 of 2007 and charges were framed and taken on file before the Sessions Court, Chennai. After elaborate consideration of the oral and documentary evidence, the Sessions Court acquitted the petitioner by judgment dated 21.11.2009. Based on the



acquittal, the petitioner's suspension was revoked. The petitioner made representation on 17.03.2010 and subsequently, the petitioner had retired from service on 30.06.2010. The enquiry officer by a report dated 23.06.2010 found the petitioner not guilty of the charges, but prior to the retirement of petitioner, the 2nd respondent issued the impugned order dated 29.06.2010 differing from the enquiry officer's findings and imposed a punishment of censure. Thereafter the petitioner has preferred an appeal before the 1st respondent, but the 1st respondent by order dated 17.11.2010 without considering the fundamental facts of the case, has simply confirmed the order passed by the 2nd respondent. Challenging the same, the present writ petition is filed.

2. According to the learned counsel for the petitioner, another person namely V.Subramnai who arrayed as first accused in C.C.No. 3 of 2007 and inflicted with the punishment of censure by the respondent-Corporation had acquitted from the said criminal case. Subsequent to the said acquittal, his suspension was revoked and the suspension period was regularised by the respondents. Therefore, the petitioner who arrayed as 2nd accused in the said criminal case is also entitle for the similar relief .

3. The learned standing counsel appearing for the respondent strongly contended that due to the criminal case registered as against the petitioner and arrayed as 2nd accused in the said criminal case, the disciplinary proceedings were initiated and awarded punishment of censure. But the learned standing counsel appearing for the respondent had not disputed the fact that subsequent to the acquittal from the criminal case as against the V.Subramani who arrayed as 1st accused in the said criminal case, the period of suspension was regularised by the respondents.

4. Admittedly, there is no dispute that the petitioner was removed from service and charges were framed on the basis of arrest on the ground of accepting illegal gratification along with another person. Consequent to the acquittal, the petitioner was reinstated into service and permitted to retire from service. Even though the charges framed against the petitioner held not proved by the enquiry officer, the 2nd respondent had imposed punishment of censure on the ground that the petitioner had caused disrepute to the Corporation, without affording opportunity to the petitioner to give explanation. Further, in view of the acquittal, the suspension of V.Subramani who arrayed as A1 in C.C.No. 3/2007 was revoked and suspension period was regularised by the respondent.



5. In view of the aforesaid undisputed fact and also considering the fact that similarly placed person was granted relief, this Court is of the view that the petitioner is also entitled for the similar relief.

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6. Accordingly, the impugned order is quashed. The writ petition is disposed of with the direction that the respondent shall consider the representation of the petitioner and pass appropriate orders in the light of the proceedings of the respondent in Na.Ka.No. A17/2465/2015, dated 16.04.2015, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Chennai Corporation
Ripon Buildings,
Chennai -600003.

2.The Zonal Officer,
Zone -V, Chennai Corporation
Chennai.

+2cc to Mr.S.C.Sezhiyan, Advocate, S.R.No.69407
+1cc to the Government Pleader, S.R.No.69345

W.P.No.18511 of 2014

GPL(CO)
KKV/01/02/2022