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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 15.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.23100 of 2019

and

W.M.P.Nos.22810, 22812 & 22815 of 2019

Mr.K.Srinivasan

...Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by the Principal Secretary to
Government,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.Government of Tamil Nadu,
Rep. by its Secretary/ Commissioner
for Disciplinary Proceedings,
Kuralagam, Chennai - 600 001.

3.The Engineer-in-Chief,
WRD & Chief Engineer (General) PWD,
Chepauk, Chennai - 600 005.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to G.O.(D) No.118, Public Works (E1) Department, dated 27.05.2019 and quash the same, and consequently direct the 1st respondent to reinstate the petitioner in service and to grant all attendant and monetary benefits including posting and seniority with effect from 24.07.2007.

For Petitioner : Mr.P.Wilson, Senior Counsel
for M/s.P.Wilson Associates

For Respondents: Mr.K.Tippu Sulthan
Government Advocate

ORDER

By consent of both the parties, this writ petition is
taken up for final disposal.



2. The petitioner herein was levelled with certain charges and on the similar set of charges, a criminal case was also registered against him by the CBCID, Tiruvannamalai, which ended in an acquittal.

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3. When the petitioner had filed a writ petition before this Court in W.P.No.29900 of 2014, in which he had sought for quashing the order of punishment, by which he was compulsorily retired from services, the order passed in the writ petition came to be challenged before a Hon'ble Division Bench of this Court in W.A.No.1713 of 2014, wherein the petitioner had raised a specific ground that since the charges in the criminal case as well as the departmental proceedings are one and the same, the judgment of acquittal passed by the Criminal Court dated 27.04.2016 requires to be considered and the punishment has to be interfered with. The Hon'ble Division Bench was of the view that such a ground for consideration of the petitioner's acquittal in the criminal case could be raised before the disciplinary authority and accordingly granted liberty to the petitioner to submit a further reply to the second show cause notice within a specified time. The relevant portion of the order of the Hon'ble Division Bench passed in W.A.No.1713 of 2014 reads as follows:-

"3. The sheet anchor of the argument of the learned counsel for the appellant is that the appellant was arrayed as the 4th accused in the criminal case registered by the CBCID, Tiruvannamalai and after full trial, the appellant has been acquitted by the Chief Judicial Magistrate cum Special Court, Tiruvannamalai by order dated 27.04.2016. It is submitted that the charge sheet in the criminal case is also on the same set of facts. In our considered view, we cannot examine this contention. However, it is well open to the appellant to raise such a contention before the disciplinary authority.

4. In the light of the above, the stay granted by the Court restraining the respondents from passing final orders is vacated and the appellant is directed to submit a further reply to the second show cause notice within a period of two weeks from the date of receipt of a copy of this judgment, after which, the disciplinary authority shall pass final orders within a period of thirty days from the date on which appellant submitted the further reply. Till then, the appellant shall be permitted to continue in the place where he has been posted as on date based on the interim order granted by another Division Bench in this appeal on 26.03.2018."



4. In accordance with the liberty granted by the Hon'ble Division Bench in the aforesaid order, the petitioner herein had given his further reply to the second show cause notice on 09.03.2019, wherein he had raised a specific ground stating that, since the charges framed in the criminal case and the disciplinary proceedings are on the same set of facts, he shall be absolved from all the charges framed against him. In support of such a ground, the petitioner had also relied on the findings of the Hon'ble Division Bench passed in W.A.No.1713 of 2014.

5. However, through the present impugned order dated 27.05.2019, the first respondent herein, without reference to the liberty granted to the petitioner and the directions of the Hon'ble Division made in W.A.No.1713 of 2014, had totally ignored the ground raised by the petitioner in his reply to the second show cause notice dated 09.03.2019 that the charges in the criminal case and the disciplinary proceedings are one and the same and that he was acquitted from the criminal case, the first respondent herein had rejected the further appeal and confirmed the original punishment of compulsory retirement. Apparently, the impugned order dated 27.05.2019 passed by the first respondent herein cannot be sustained, in view of the non-adherence to the directions of the Hon'ble Division Bench.

6. This Court is of the view that if the first respondent herein is granted one more opportunity to comply with the directions of the Hon'ble Division Bench as stated above, the ends of justice could be secured.

7. In the light of the above observations, the impugned order dated 27.05.2019 passed by the first respondent, is quashed and the matter is remitted back to the first respondent herein. Consequently, the first respondent is directed to pass a reasoned speaking order in accordance with the specific directions of the Hon'ble Division Bench passed in W.A.No.1713 of 2014 dated 13.12.2018, after consideration of the petitioner's grounds raised in his further reply to the second show cause notice dated 09.03.2019. The first respondent herein shall endeavor to pass such an order atleast within a period of 12 weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//



1.The Principal Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.The Secretary/ Commissioner
for Disciplinary Proceedings,
Kuralagam, Chennai - 600 001.

3.The Engineer-in-Chief,
WRD & Chief Engineer (General) PWD,
Chepauk, Chennai - 600 005.

+1cc to M/s.P.Wilson Associates, Advocate SR.No.33853

W.P.No.23100 of 2019

and

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AK(CO)
GMV(02/08/2021)