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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.10471 of 2022

and

W.M.P.No.10165 of 2022

Ponraj Selvakumar

... Petitioner

vs.

1. The Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Fort St.George,
Chennai - 600 009.
 2. The Additional Chief Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.
 3. The Secretary to Government,
Human Resources Management Department,
Secretariat, Fort St.George,
Chennai - 600 009.
 4. The Commissioner of Municipal Administration,
Urban Administrative Building,
No.75, DGS Dinakaran Road,
Chennai - 600 028.
 5. The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Nandanam, Chennai - 600 035.
 6. The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the proceedings of the 1st respondent made in DO Letter No.37093/Pay Cell/2015 dated 23.11.2015 and the records of the proceedings of the 4th



respondent made in Roc.No.8549/2016/OP1 dated 23.03.2016 and quash the same.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mrs.P.Rajarajeswari
Government Advocate

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O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed seeking to quash the proceedings of the 1st respondent made in DO Letter No.37093/Pay Cell/2015 dated 23.11.2015 and the proceedings of the 4th respondent made in Roc.No.8549/2016/OP1 dated 23.03.2016.

3. According to the writ petitioner, presently, he is working as Superintendent in the office of the Commissioner of Municipal Administration. While he was working as Assistant, the Government accepted the One-Man Commission report on rationalising the services in various departments and issued a GO (Ms) No.338 Finance (PC) Department dated 26.08.2010, wherein the Government decided to wind up all the last grade posts in the Engineering Service of the Municipal Administration by granting higher pay scale by amalgamating all the services into unskilled. The said Government order was immediately implemented by some of the Municipalities and Corporations without the knowledge of the 4th respondent. Thereafter, the 4th respondent called for the details of the employees working in the various Municipalities and the Corporations except Chennai Corporation. After the receipt of the said details, the papers were entrusted with the petitioner and the Superintendent and the Additional Director of Municipal Administration for the purpose of preparing a list of last grade servants in various cadres so as to implement the Government order.

3.01. Accordingly, they have prepared a list as per the details supplied by the Municipalities and Corporations and submitted a report to the Joint Commissioner of Municipal Administration. The Joint Commissioner approved the list and placed the file before the Commissioner of Municipal Administration for his approval and further action. The 4th



respondent approved the same and sent a communication to all the Municipalities and Corporations to implement the G.O Ms.No.338 as per the list attached with the letter dated 01.10.2012. Pursuant to the objections made by the Director of Local Fund Audit / the 5th respondent herein, the 4th respondent cancelled his earlier proceedings and issued new proceedings dated 21.05.2015 where he included only 27 posts by excluding other posts. Due to cancellation, the Municipalities and Corporations proceeded against its employees for recovery of the payment already made in favour of them. The affected employees filed writ petitions before this Court. Since the Finance Department was also made as party in the proceedings, the 1st respondent instead of verifying the causes involved in the cases and without perused the files referred by him in the impugned proceedings, directed the 4th respondent to take disciplinary actions against the persons involved in this process. Pursuant to the same, the 4th respondent has taken disciplinary proceedings against the petitioner and two other retired officials of the Municipal Administration. The action itself is bad since the 4th respondent initiated action against the retired persons, after a period of four years which is against the pension rules and the action of the 4th respondent against the petitioner is also without any materials. Hence, the present writ petition.

4. Though the present writ petition has been filed challenging the impugned charge memo, after elaborate argument made by the learned counsel appearing for the petitioner, he has restricted his relief by directing the respondents to conclude the disciplinary proceedings within a specified time fixed by this Court. He would further submit that the Enquiry Officer has concluded the enquiry, but he has not submitted the report to the disciplinary authority. Therefore, the petitioner seeks appropriate directions to the respondents to conclude the disciplinary proceedings.

5. Mrs.P.Rajarajeswari, learned Government Advocate takes notice for the respondents and would submit that if there is no other legal impediment, the respondents will conclude the disciplinary proceedings at the earliest.

6. Inview of the aforesaid submissions and also considering the limited scope of prayer, without expressing any opinion on merits, this Court is inclined to direct the 6th respondent / Enquiry Officer to conclude the enquiry and submit the report to the disciplinary authority as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.



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7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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+1cc to Mr.S.Thirumavalavan, Advocate, S.R.No.29641

W.P.No.10471 of 2022
and W.M.P No.10165 of 2022

PVS (CO)
SU(27/05/2022)