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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NOS.31086 & 31087 OF 2016

R.Karthikeyan

...Petitioner in both the WPs

-Vs-

1. The Government of Tamilnadu,
Rep. by its Principle Secretary,
Municipal Administration & Water Supply,
Secretariat, Chennai - 600 003.

2. The Corporation of Coimbatore,
Rep. by its Commissioner,
Coimbatore Corporation,
Big Bazaar Street,
Coimbatore - 641 001.

...Respondent in both the Wps

Prayer in W.P.No.31086 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records on the file of the 2nd respondent in R.O.C.No.93/2014/MC 3 dated 20.04.2015 and quash the same only in respect of the word "CENSURE" and consequently directing the respondents to remove the word "CENSURE" from the petitioner's service register.

Prayer in W.P.No.31087 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 19.05.2015 and to pay the full salary for the period from 06.01.2014 to 30.04.2015, back wages for the suspension period with all consequential service benefits.



For Petitioner : Mr.R.Shanmugam in both the WPs

For Respondent : Mr.P.Ganesan, Govt.Advocate for R1
Mr.K.Magesh for R2
- both the WPs

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ORDER

On two sets of charges, framed under a charge memo dated 17.01.2014 by the second respondent herein, the petitioner was subjected to departmental enquiry. During the course of enquiry, the Enquiry Officer found through his report dated 27.01.2015, that "both the charges were not proved". However, the second respondent herein had chosen to censure the petitioner through the impugned order dated 20.04.2015, which is under challenge in W.P.No.31086 of 2016. Since the petitioner was not paid the monetary benefits for the period of his suspension between 07.01.2014 to 18.05.2015, W.P.No.31087 of 2016 has been filed.

2 Insofar as the order dated 20.04.2015, censuring the petitioner is concerned, it is seen that the second respondent had referred to the findings of the Enquiry Officer that both the charges were not proved and inspite of the same, he had chosen to censure the petitioner through the impugned order. A perusal of the order reveals that while censuring the petitioner, there is absolutely no reason assigned as to how the disciplinary authority had deferred with the findings of the Enquiry Officer. Likewise, no prior notice has also been issued before the order of censure was passed. As such, the impugned order dated 20.04.2015 censuring the petitioner cannot be sustained, since it is not only non speaking order but also in violation of principles of natural justice.

3 At this juncture, it is brought to the notice of this Court that in consequence of the impugned order dated 20.04.2015, the second respondent had passed another order in Na.Ka.No.93/2014/M.C.3 dated 08.03.2016 by treating 31 days from 07.01.2014 to 06.02.2014 as earned leave and remaining 466 days were treated as leave without wages. Since this Court had quashed the original order dated 20.04.2015 and also since there is no censure order against the petitioner, the consequential order dated 08.03.2016 can not be sustained.

4 In the result, the impugend order in R.O.C.No.93/2014/MC 3 dated 20.04.2015, as well as the consequential order in Na.Ka.No.93/2014/M.C.3 dated 08.03.2016 are quashed. Consequently, the second respondent shall disburse the entire back wages between 07.01.2014 to 18.05.2015 as duty period for all pensionary benefits and disburse the monetary



benefits for the said period to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

5 With the above directions, these Writ Petitions stand allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principle Secretary,
The Government of Tamilnadu,
Municipal Administration & Water Supply,
Secretariat, Chennai - 600 003.
2. The Commissioner,
The Corporation of Coimbatore,
Coimbatore Corporation,
Big Biazaar Street,
Coimbatore - 641 001.

+2ccs to Mr.R.Shanmugam, Advocate, S.R.No.4097,4096
+2ccs to Mr.K.Magesh, Advocate, S.R.No.4055,4054
+1cc to the Government Pleader, S.R.No.4746

W.P.Nos.31086 & 31087 of 2016

PCH(CO)
PM/07/02/2022