



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.9483 OF 2014

AND

M.P.NO.1 OF 2015

G.Ramesh

...Petitioner

-Vs-

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai - 600 009.
2. Thiru.K.Phannindra Reddy, I.A.S.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 1st respondent in Letter No.15337/MC3/2013-2 MAWS Department dated 25.03.2014 and quash the same and consequently direct the 1st respondent to promote the petitioner as Chief Engineer from 01.05.2013 with all monetary benefits.

For Petitioner :	Mr.S.N.Ravichandran for Mr.T.Ranganathan
For R1 :	Mr.A.M.Ayyadurai Government Advocate
For R2 :	No Appearance

ORDER

The order rejecting the claim of the writ petitioner for promotion to the post of Chief Engineer in proceedings dated 25.03.2014 is under challenge in the present writ petition.

2. The writ petitioner was appointed as Assistant Engineer on 31.05.1979 in Chennai City Municipal Corporation and thereafter promoted to the post of Assistant Executive Engineer in the year 1992 and as Executive Engineer in the year 2000 and finally promoted to the post of Superintending Engineer on 23.09.2011. The next avenue for promotion to the writ petitioner was to the post of Chief Engineer.



3. The petitioner states that he was qualified for promotion to the post of Chief Engineer and that his case was not considered for promotion during the relevant point of time in the year 2013, on the ground that he was facing departmental disciplinary proceeding and a criminal case. The petitioner, admittedly, reached the age of superannuation on 31.03.2014.

4. The learned counsel for the petitioner mainly contended that the departmental disciplinary proceeding initiated against the writ petitioner in TDP Case No.5 of 2008 for the allegation regarding corruption was dropped vide G.O.(D) No.272, dated 29.06.2018. That apart, the criminal case against the petitioner in C.C.No.71 of 2011 has also ended in an order of acquittal on 21.12.2020 and the petitioner was acquitted on the ground that the charges against him are not proved and he was not found guilty. Relying on the dropping of charges in TDP Case No.5 of 2008 by the Government and based on the order of acquittal passed by the competent Criminal Court of Law, the learned counsel for the petitioner reiterated that the petitioner is entitled for notional promotion to the post of Chief Engineer from the date on which his immediate junior was promoted.

5. The learned Government Advocate appearing on behalf of the first respondent objected the said contention, by stating that the petitioner has involved in many other charges and several disciplinary proceedings were also initiated against the petitioner. No doubt, TDP Case No.5 of 2008 was dropped against the petitioner and the criminal case ended in an order of acquittal. However, the departmental disciplinary proceeding under incidental recommendation for having violated the Conduct Rules was also initiated against the petitioner in C.No.32521/ME-4/2010. The present stage of the said disciplinary proceedings is that the disciplinary authority has arrived at provisional punishment against the petitioner for the proven charges and further particulars are called for from the Greater Chennai Corporation, which is awaited. That apart, another disciplinary proceedings (Vigilance Commission Case) recommended vide G.O.(2D) No.121, Municipal Administration and Water Supply (ME.4) Department, dated 25.08.2008 against the petitioner and 4 others in connection with irregularities in the sanction of planning permission and failure to collect OSR charges are also pending and the disciplinary authority has arrived provisional conclusions.

6. Admittedly, the Government dropped the proceedings in TDP Case No.5 of 2008 only on 29.06.2018 and the criminal case ended with an order of acquittal on 21.12.2020, which is after the date of retirement of the writ petitioner, i.e. 31.03.2014.



7. Question arises whether the petitioner would be eligible for notional promotion on par with his junior. Admittedly, the petitioner reached the age of superannuation on 31.03.2014. When he was in service, he was facing corruption charges before the Tribunal for Disciplinary Proceedings in TDP Case No.5 of 2008 and a criminal case in C.C.No.71 of 2011 was also pending. Thus, he was not considered during the relevant point of time for promotion to the post of Chief Engineer. Subsequently, the petitioner was not allowed to retire on attaining his age of superannuation on 31.03.2014 and he was placed under suspension and even now, he is continuing in suspension.

8. Beyond the dropping of charges in TDP Case No.5 of 2008 and the acquittal in criminal case, other disciplinary proceedings are also pending against the writ petitioner, which is in process. Thus, even today, the petitioner is under suspension and the departmental disciplinary proceedings are pending against him and even before his date of superannuation in the year 2014, he was facing serious charges of corruption by way of disciplinary proceedings and also criminal proceedings.

9. This being the factum, this Court do not find any reason to consider the case of the petitioner for notional promotion, more specifically to the post of Chief Engineer. Accordingly, the Writ Petition is devoid of merits and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

hvk

To

The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai - 600 009.

+1cc to Mr.T.Ranganathan, Advocate, S.R.No.38616

+1cc to the Government Pleader, S.R.No.39652

W.P.No.9483 of 2014

CA(CO)

RLP(07/07/2022)