

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.07.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 4710 of 2016

Madimchetty Vijayakumar

... Petitioner

-vs-

1. The Office of the Chief Engineer
Central Office
Public Works Department
Puducherry.
2. The Superintending Engineer
Public Works Department
Puducherry.
3. The Executive Engineer
Public Health Division
Public Works Department
Puducherry.
4. The Assistant Engineer
Water Works Sub Division
Public Health Division
Public Works Department
Puducherry.
5. The Junior Engineer
Water Works Sub Division
Public Health Division
Public Works Department
Puducherry.
6. The Foreman
Water Works Sub Division
Public Health Division
Public Works Department
Puducherry.
7. Mr. Sathyamoorthi

8. Mr.Govindaraj,
Foreman
Water Works Sub Division
Public Health Division
Public Works Department
Puducherry.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Fifth and Sixth Respondents to permit the Petitioner to join duty and also to be paid back wages for the period from 14.03.2015 to till date which was prevented by the Fifth and Sixth Respondents from joining duty.

For Petitioner : Mr. R.Venkatesulu

For Respondents : Mr. R.Syed Mustaf
Government Pleader (Puducherry)
(For R1 to R6)

R7 & R8 - No appearance

O R D E R

Heard Mr. R.Venkatesulu, Learned Counsel for the Petitioner and Mr. R.Syed Mustaf, Learned Government Pleader (Puducherry) appearing for the First to Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. This Writ Petition has been filed directing the Fifth and Sixth Respondents to permit the Petitioner to join duty and also to pay backwages for the period from 14.03.2015 to till date which was prevented by the Fifth and Sixth Respondents.

3. Learned Government Pleader appearing for the First to Sixth Respondents has brought to notice that the Petitioner would have to approach the Central Administrative Tribunal for any service dispute relating to the First to Sixth Respondents.

4. At this juncture, it would be appropriate to refer to the ruling of the Constitution Bench of the Hon'ble Supreme Court of India in L.Chandra Kumar -vs- Union of India [(1997) 3 SCC 261] in which it has been held as follows:-

"99. ...The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the

competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned...."

Having regard to the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file an application under Section 19 of the Administrative Tribunals Act, 1985, before the Central Administrative Tribunal for the relief claimed in this Writ Petition and he has also made an endorsement to that effect in the court record. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 22.01.2016, till the date on which certified copy of this order is made ready by the Registry, shall be excluded.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Office of the Chief Engineer
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Puducherry.
6. The Foreman
Water Works Sub Division
Public Health Division
Public Works Department
Puducherry.

+1 cc to Government Pleader (Puducherry) Sr.NO. 43055

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SKM(CO)

A.SK(14/07/2022)