



WEB COPY

W.P.(MD)No.6005 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.6005 of 2019

and

W.M.P. (MD)No.4798 of 2019

P.Suresh

... Petitioner

-Vs-

- 1.The Commissioner,
Madurai Corporation,
Madurai - 2.
- 2.The Deputy Commissioner,
Madurai Corporation, Madurai - 2.
- 3.The City Health Officer,
Madurai Corporation,
Anna Maaligai, Madurai - 2.
- 4.The Assistant Commissioner,
Zone - II, Madurai Corporation,
Madurai - 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the 3rd respondent in No.H2/19797/18 dated 09.08.2018 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner in service by considering the order of this Court in WP(MD).No.18573 of 2018.

For Petitioner : Mr.M.Mohamed Rafi, Advocate
For R1 : Mr.T.S.Mohammed Mohideen, Advocate

ORDER

The writ petitioner has earlier filed W.P.(MD)No.18573 of 2018, challenging the order dated 09.08.2018 placing the writ petitioner under suspension, wherein this Court has passed final order on 27.08.2018. The relevant paragraphs are as follows:-

3.On a perusal of the impugned order, it is seen that on behalf of the Commissioner, the third respondent has signed. original order has been duly signed by the Commissioner and based on which, a copy of the order signed by his Subordinate, namely third respondent has been forwarded to the petitioner. It does not mean that the third respondent



has played the role of the Commissioner or he usurped the jurisdiction of the Commissioner.

4.Suspension is not a punishment, even though the charge against the petitioner is that he has not vacated the quarters. Hence, I find no infirmity in the impugned order and this court shall not interfere with the suspension order. This Court in catena of cases held that suspension is not a punishment. It is open to the competent authority to issue charge memo against the petitioner and proceed with the departmental action on day-to-day basis, without adjourning the matter, beyond seven working days, till the issue comes to a logical end."

2.The present Writ Petition is also filed challenging the very same order dated 09.08.2018, stating that no action has been taken by the respondents and therefore, the petitioner has filed this Writ Petition.

3.A fresh Writ Petition cannot be a remedy for the implementation of the orders passed by the High Court under Article 226 of Constitution of India. If at all the petitioner is of an opinion that the order of this Court has not implemented, then he has to file an appropriate application for implementation. Contrarily, the petitioner cannot file a fresh Writ Petition, challenging the very same suspension order. By filing another Writ Petition, the petitioner has made an attempt to secure another order, which is otherwise impermissible. Whereas the petitioner has to challenge the order of suspension and if final order is passed, thereafter, the remedy lies before the appellate Court or in the event of non-implementation, the petitioner has to file proper application. Contrarily, he cannot file a fresh Writ Petition, challenging the very same suspension order. Thus, such a procedure is impermissible and by filing Writ Petition after Writ Petition, the petitioner has made an attempt to secure some order in an improper manner, which cannot be appreciated.

4.The learned counsel appearing for the petitioner made a submission that the petitioner was reinstated and the order of suspension was revoked. If so, it is for the petitioner to face departmental disciplinary proceedings already initiated by the respondents. It is needless to state that the petitioner was placed under suspension in the year 2018 and 3 ½ years already lapsed. Therefore, the competent authorities are bound to proceed with the departmental disciplinary proceedings and dispose of the same as expeditiously as possible.



5.With these observations, this Writ Petition stands dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

TO

- 1.The Commissioner,
Madurai Corporation,
Madurai - 2.
- 2.The Deputy Commissioner,
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- 3.The City Health Officer,
Madurai Corporation,
Anna Maaligai, Madurai - 2.
- 4.The Assistant Commissioner,
Zone - II, Madurai Corporation,
Madurai - 2.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-4901[F] dated
08/02/2022)

**W.P. (MD)No.6005 of 2019
08.02.2022**

RS(18.02.2022) 3P-6C