



W.P.(MD).No.18404 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.18404 of 2021

and

W.M.P.(MD).Nos.15197 and 15198 of 2021

S.S.Porchelian

... Petitioner

Vs.

The Engineer-in-Chief,
WRD and Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai-5.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records in relating to the impugned order in CII(3)/3145/2015-28 dated 31.01.2020 passed by the respondent and to quash the same and consequently to direct the respondent to reinstate the petitioner into his service as Junior Engineer and to provide all accrued service benefits to the petitioner within the time stipulated by this Court.



W.P.(MD).No.18404 of 2021

For Petitioner : Mr.M.S.Jeyakarthik
For Respondent : Mr.M.Siddharthan,
Additional Government Pleader.

ORDER

The petitioner herein was convicted in a criminal case in Special Case No.04 of 2016 by the Special Court for Trial of cases under Prevention of Corruption Act, Tirunelveli through a judgment, dated 25.09.2019. Pursuant to his conviction, the present impugned order has been passed under Rule 17(c) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, dismissing the petitioner from the services.

2. The only ground raised by the petitioner is that no enquiry was conducted prior to the passing of the impugned order of dismissal. According to the learned counsel for the petitioner, as against the order of conviction, the petitioner had also filed a Criminal Appeal in CrI.A.(MD).No.465 of 2019, which is pending before this Court.



W.P.(MD).No.18404 of 2021

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3. I do not find any legality on the ground raised by the petitioner that no enquiry was conducted prior to the order of dismissal. Rule 17 (c) specifically provides that when a Government employee is convicted by a Criminal Court, the requirements of Sub Rule (b) of Rule 17 shall not apply. In other words, no enquiry need be conducted in cases where the employee is convicted by the Criminal Court. As such, passing of the dismissal order without an enquiry cannot be found fault with.

4. Rule 17(c) further provides that before a penalty is imposed under this Rule, the employee should be given a reasonable opportunity of making representation. In this case, such an opportunity has been given to the petitioner herein also and the written representation given by the petitioner has also been considered. Pursuant to the same, the impugned order has been passed. As such, I do not find any infirmity in the procedure adopted by the respondent.

5. Insofar as the pendency of the appeal is concerned, Rule 17(c) does not give exemptions to cases where appeals have been filed, or are pending against the order of conviction. In the absence of the same, a mere pendency of the



W.P.(MD).No.18404 of 2021

appeal will not enable or entitle the petitioner to seek for setting aside the order of dismissal on the ground that no enquiry was conducted prior to the dismissal.

As such, I do not find any merits in the present Writ Petition.

6. Accordingly, this Writ Petition stands dismissed. However, in case the petitioner succeeds in the Criminal Appeal filed by him against the judgment of conviction, liberty is hereby granted to the petitioner to workout his remedies in accordance with law. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.07.2022

Index : Yes
Internet : Yes
Lm

To

The Engineer-in-Chief,
WRD and Chief Engineer (General),
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W.P.(MD).No.18404 of 2021

M.S.RAMESH, J.

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W.P.(MD).No.18404 of 2021

28.07.2022