



W.P.(MD)No.664 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.664 of 2016
and
W.M.P.(MD)No.540 of 2016

A.M. Sundaravel

... Petitioner

vs.

1.The Chief Engineer,
W.R.O. PWD - Madurai Division,
Thalakulam, Madurai.

2.The Superintending Engineer,
W.R.O. PWD - Special Project Circle,
Tirunelveli - 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent, vide Na.Ka.no.C4/2743/15/(6834)/, dated 23.10.2015, to quash the same and consequently, to direct the respondents to drop the proceedings against the petitioner on the basis of charge memo issued by the 2nd respondent, vide letter No.20C/Ka.kaa/, dated 13.01.2012.



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For Petitioner : Mr.A.M.Sundaravel
Party-in-Person
For Respondents : Mr.P.Thambidurai
Government Advocate (Civil side)

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the 1st respondent, vide Na.Ka.no.C4/2743/15/(6834)/, dated 23.10.2015 and consequently, to direct the respondents to drop the proceedings against the petitioner on the basis of charge memo issued by the 2nd respondent, vide letter No.20C/Ka.kaa/, dated 13.01.2012.

2. The petitioner was working as Work Inspector Grade II Special Project Sub Division II Ambasamudhram. He submitted a representation against the illegality of some erring officials in Reservoir construction, laying of bridges and unlaying of information boards, etc. So, as per the order of Superintending Engineer, the officials transferred the petitioner to Thuckalay. Aggrieved over the transfer order, the petitioner has submitted a representation through his advocate on 30.11.2011. By quoting some flaw on the representation, the Superintending



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Engineer has initiated departmental proceedings by issuing a charge memo under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal Rules), dated 03.01.2012. The petitioner submitted a reply on 13.02.2012. Based on the reply, the Superintending Engineer passed the impugned order of punishment with holding the increments with cumulative effect for one year. The petitioner preferred an appeal to the respondent on 19.03.2012. Since there was no reply, reminder was submitted on 10.11.2014. Thereafter, the appeal was considered by the respondent and an order, dated 07.01.2015, was passed rejecting the petitioner's plea. Aggrieved over the same, the petitioner has preferred a Writ Petition in W.P.(MD)No.1414 of 2015 and the same was disposed of on 05.02.2015 with a direction to file a fresh appeal with condone delay petition within two weeks from the date of receipt of a copy of that order. The petitioner preferred a fresh appeal on 02.03.2015 along with condone delay petition but, the petitioner received a letter from the Superintending Engineer, dated 10.03.2015, demanding separate appeals for three punishments with condone delay. The petitioner replied on 09.04.2015, that the petitioner is concerned about only one punishment and had submitted an appeal with delay condonation petition. The



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petitioner has filed another Writ Petition to dispose the appeal, dated 02.03.2015, while the matter was pending, an order, dated 23.10.2015, was passed. Aggrieved over the said punishment order, the petitioner has filed this Writ Petition. The petitioner has also filed a reply affidavit to the counter affidavit filed by the respondents.

3. The second respondent has filed a counter affidavit stating that the petitioner was repeatedly making some allegations against the Higher Officials and several opportunities were granted to him to mend his ways. The petitioner issued an advocate notice claiming Rs.1,00,000/- as compensation for his transfer order and alleged several remarks against the officials and criticized their official work. The petitioner admitted the sending of legal notice but defended that sending of legal notice would not amount to any misconduct and prayed to sustain his view. However, the respondents confirmed the misconduct and held that the charges are proved. Thereafter, the said punishment was imposed on the petitioner.



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4. Heard Mr.A.M.Sundaravel, Party-in-Person and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents.

5.It is seen from the records that the petitioner has sent the advocate notice. In the notice, it has been clearly stated that it is for the transfer order, dated 04.11.2011, the petitioner had issued this advocate notice directing the official respondents to cancel the transfer order and pay Rs.1,00,000/- as compensation within 15 days, otherwise, the respondents will be facing Court proceedings and the respondents are liable for the cost of the Court proceedings.

6. Admittedly, the petitioner is an employee under the respondents and the respondents had issued a transfer order to Thuckalay, since the project where the petitioner was working was completed and it was transferred to Chennai. Therefore, the existing employees who were working in the said project were transferred to Poigai Reservoir Project. The petitioner has misunderstood the transfer order issued by the respondents. It is a cardinal rule under the Service Jurisprudence that service transfer is an incident of service. The petitioner alleges



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transfer on malice but, the petitioner has not included anybody in person and the allegation of malice is rejected.

7. Therefore, this Court is of the considered opinion that issuing notice that too legal notice through advocate and claiming compensation for the transfer order and questioning the authority of the higher officials for transfer amounts to threatening the higher officials. By the said act, the petitioner has created an atmosphere where the higher officials could not carry on their work and the work place is not smooth for the higher officials. Therefore, this Court is of the considered opinion that the punishment of stoppage of increment for one year with cumulative effect is an appropriate punishment and this Court is not inclined to interfere. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes

19.04.2022

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S.SRIMATHY, J

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To

- 1.The Chief Engineer,
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Thalakulam, Madurai.
- 2.The Superintending Engineer,
W.R.O. PWD - Special Project Circle,
Tirunelveli - 2.

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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