



Cont.P.No.1680 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Contempt Petition No.1680 of 2015

and

W.P.No.33811 of 2015

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J.Venugopal,
Superintending Engineer,
(now under suspension)
Chennai City Municipal Corporation,
Chennai – 600 003.

...Petitioner

Vs.

K.Phanindra Reddy, I.A.S.,
Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai – 600 009.

...Respondent

Prayer:- Contempt Petition filed under Section 11 of the Contempt of Court Act, to punish the respondent for disobeying the order dated 17.04.2015 in W.A.No.560 of 2015.



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For Petitioner : Mr.T.Ranganathan

For Respondent : Mr.S.Silambanan

Additional Advocate General assisted by

Mr.L.S.M.Hasan Fizal

Additional Government Pleader

W.P.No.33811 of 2015

J.Venugopal

..Petitioner

Vs.

1.The Commissioner,
Chennai City Municipal Corporation,
Chennai – 600 003.

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

3.Thiru K.Phanindra Reddy, I.A.S.,
Secretary to Government,
Municipal Administration
and Water Supply Department,
Secretariat, Chennai – 600 009.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India

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seeking issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned charge memo issued by the 1st respondent in GDC No.E13/34487/15, dated 18.09.2015 and quash the same and consequently, direct the 3rd respondent to permit the petitioner to retire from service without prejudice to the initiatives of disciplinary proceedings under Rule 9 of the Tamil Nadu Pension Rules.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.S.Silambanan

Additional Advocate General assisted by
Mr.L.S.M.Hasan Fizal

Additional Government Pleader for R1 & R2
R3 – No Appearance

COMMON ORDER

This Writ Petition has been filed challenging the charge memo issued to the petitioner under Rule 10(b) of the Madras Corporation Services (Classification, Control and Appeal) Rules, 1970 on 18.09.2015.

2.The fundamental contention of the petitioner in this Writ Petition is that all the charges are based on audit objections, which have been settled



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and hence, the charges do not survive. This Court passed an interim order on 26.10.2015, granting interim stay of further proceedings till 16.12.2015, after having recorded the submission of the learned counsel for the petitioner to the effect that all the audit objections are routine administrative matters and there has been no financial loss to the Corporation.

3.This Contempt Petition has been filed complaining that the order of this Court made in W.A.No.560 of 2015 dated 17.04.2015 has not been complied with.

4.Admittedly, the Hon'ble Division Bench had directed disposal of the disciplinary proceedings against the petitioner within a particular time frame, since the petitioner was suspended on the eve of his retirement. However, a charge memo was issued by the respondents on 18.09.2015, which was subject matter of challenge in the Writ Petition. When the above proceedings came up before us on 21.12.2022, a submission was made on behalf of the Corporation that in view of the stay granted in the Writ Petition, the Corporation is unable to proceed further to disburse the Death



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cum Retirement Gratuity of the petitioner. It was also conceded that all the audit objections have been dropped and the Corporation had recommended dropping of disciplinary proceedings.

5.Upon the statement being made by the learned Additional Advocate General, we had required the Commissioner, Chennai Corporation to file an affidavit to that effect. Pursuant to our order, the Commissioner, Chennai Corporation has filed an affidavit wherein, it is stated that there were certain audit objections against the petitioner and he was placed under suspension on the eve of his retirement. A charge memo was issued and further proceedings on the charges were stayed by this Court in W.P.No.33811 of 2015.

6.It is also further averred that the Chennai Corporation council passed a resolution in Resolution No.472 of 2019 dated 20.08.2019 stating that all the audit objections were settled. Pursuant to the same, the retirement benefits of the petitioner except the Death cum Retirement Gratuity were paid on 04.12.2018 and the petitioner was allowed to retire,



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subject to the conclusion of the disciplinary proceedings by

G.O..Ms.No.401, MAWS (MC-3) department dated 10.11.2021.

7.In the interregnum, the Corporation has sent a communication to the Government on 11.03.2020, informing the Government that all the audit objections related to the petitioner were settled and since all the charges leveled against the individual related only to the audit objections, the disciplinary proceedings can be dropped. However, ignoring the said letter of the Corporation, the Government decided to allow the petitioner to retire subject to the conclusion of the disciplinary proceedings. In view of the statement so made by the Commissioner of Corporation, on affidavit, we find that no useful purposes would be served by allowing the Government to proceed with departmental enquiry any further. Therefore, the charge memo is quashed.

8.Taking advantage of the pendency of the Writ Petition, the Government has unauthorizedly retained a sum of Rs.10,00,000/- payable to the petitioner towards his Death cum Retirement Gratuity, which is payable



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on the date of his retirement. The petitioner has been allowed to retire under

G.O.(D)M.S.No.401 dated 10.11.2021 with effect from the afternoon of 30.06.2014. Now that the charge memo has been quashed, this amount becomes payable on 30.06.2014. Non-payment of the money to the petitioner by the Government would amount unjust enrichment by the Government.

9.We have already found that nothing survived in the charges and the Corporation had vide its Resolution dated 20.08.2019 dropped all the audit objections therefore, there was no justifiable ground for the Government to have persisted with the disciplinary proceedings and passed a Government Order on 10.11.2021, allowing the petitioner to retire reserving its liberty to proceed under Rule 9 of the Tamil Nadu Pension Rules. The entire exercise seems to have stemmed out of malice or ignorance.

10.We are unable to appreciate the conduct of the Additional Chief Secretary to Government, who had signed the Government Order dated



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10.11.2021, despite having referred to the resolution of the Corporation dated 20.08.2019. Attempt is made to take shelter under the interim order granted by this Court in W.P.No.33811 of 2015. The said interim order was restricted only upto 16.12.2015 and the interim order was also only for taking further proceedings on the charge memo and not for dropping the charges.

11.We are therefore, unable to appreciate the action of the Government in keeping the entire matter pending without allowing the petitioner to retire. We find that the retention of Rs.10,00,000/- being the Death cum Retirement Gratuity payable to the petitioner would amount to harassment of the petitioner. We therefore, direct the Government to pay the said sum of Rs.10,00,000/- with interest at 12% per annum from 01-07-2014 till date of actual payment within a period of six weeks from today. Failing compliance, the interest will stand enhanced to 24% p.a. from 01.07.2014 till date of payment.



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12.In view of the affidavit filed by the Commissioner of Chennai

Corporation, the Writ Petition will stand allowed, the charge memo will stand quashed. The Government will not proceed with the departmental enquiry any further. The Contempt Petition will stand closed. Consequently, connected miscellaneous petitions, if any, are closed.

(R.S.M., J.) (S.S.K., J.)
03.01.2023

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Index:No
Internet:Yes
Speaking

To-

- 1.The Commissioner,
Chennai City Municipal Corporation,
Chennai – 600 003.
- 2.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai – 600 009.
- 3.Thiru K.Pahindra Reddy, I.A.S.,
Secretary to Government,
Municipal Administration and Water Supply Department,
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R.SUBRAMANIAN, J.
&
SATHI KUMAR SUKUMARA
KURUP.J

KKN

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