



W.A.No.973 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.973 of 2022

AND

C.M.P.No.6235 of 2022

The Deputy Commissioner (Works)
Greater Chennai Corporation
Ripon Buildings
Chennai 600 003

.. Appellant

Vs.

V.Kumar

.. Respondent

Writ Appeal filed under Clause 15 of Letters Patent Act, against the order dated 11.01.2022 passed in W.P.No.28777 of 2017.

For Appellant : Mr.Silambanan
Additional Advocate General
for Mrs.Karthikaa Ashok

For Respondent : Mr.Kabilan
for Mr.M.Ravi



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JUDGMENT

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(Judgment of the court was delivered by R. MAHADEVAN, J.)

Assailing the order dated 11.01.2022 passed by the learned Judge in W.P.No.28777 of 2017, the writ appeal came to be filed by the Corporation.

2.The delinquent/respondent herein, who was working as a Junior Engineer in the appellant Corporation has filed the aforesaid writ petition to quash the proceedings in G.D.C.No.E4/8210/2008 dated 18.09.2017 dismissing him from service based on the inquiry report in TDP Case No.19 of 2012 and for a consequential direction to reinstate him in service with all consequential benefits.

3.Considering the facts and circumstances of the case, the learned Judge allowed the writ petition directing the appellant to forthwith reinstate the writ petitioner in service, together with continuity of service and all monetary and attendant benefits, including issuance of promotional orders, by the order impugned herein.

4.Amongst many grounds raised in the appeal, the learned Additional Advocate General appearing for the appellant has submitted that the



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Disciplinary Proceedings Tribunal Rules, 1955 places the authority and competency with the Commissioner of the Municipal Corporation to impose penalty in respect of its Class-III employees, which is similar to the empowerment of the Commissioner envisaged in the Chennai City Municipal Corporation Act, 1919; that the fixation of authority in the Disciplinary Proceedings Tribunal Rules is not the delegation of powers, but the learned Judge, treating the delegation given to the appellant as a sub-delegation, passed the impugned order by setting aside the order of dismissal passed against the delinquent, by the order impugned herein, which is contrary to law.

5.The learned Additional Advocate General appearing for the appellant has also referred to a judgment of the Supreme Court in Civil Appeal No.6776 of 2022 dated 23.09.2022, in which it was held that since the delinquent therein was facing the departmental enquiry with respect to a very serious charge of misappropriation, the High Court ought to have remitted the matter back to the Disciplinary Authority to conduct the inquiry from the point it stood vitiated. Therefore, the learned counsel sought to allow this appeal by setting aside the order of the learned Judge.

6.On the other hand, the learned counsel for the respondent / delinquent has submitted that the impugned order passed by the learned single Judge does



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not require any interference as the same has been passed after considering the arguments advanced on the side of the parties at length and after perusing the records.

7. Heard the learned counsel on either side and perused the records.

8. Before the writ court, the respondent challenged the order of dismissal passed against him. Accepting the contentions made by the learned counsel for the delinquent that the order dismissing the delinquent from service was not passed by the competent authority; that no reasons have been assigned in the dismissal order; and that the order passed is “malice in law”, the learned Judge set aside the dismissal order and accordingly, allowed the writ petition in favour of the respondent. The said order of the learned Judge is under challenge in this writ appeal.

9. Upon a reading of the charge memo, it is seen that the delinquent has acquired disproportionate assets during the check period from 01.09.1996 to 31.12.2007. This charge is very serious in nature. Hence, applying the principles laid down in the judgment of the Hon'ble Supreme Court in Civil Appeal No.6776 of 2022 dated 23.09.2022, it would be appropriate to remit the



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matter to the disciplinary authority for conducting fresh enquiry and to pass appropriate orders, on merits.

10. When this Court was about to pass such an order, both the parties have agreed that the matter may be remitted to the authority/ Commissioner, for passing appropriate orders on merits, taking into consideration all the grounds raised as well as the case laws cited by the respective parties.

11. Accordingly, the order of the learned Judge is set aside and the matter is remitted to the Commissioner of the Municipal Corporation for passing appropriate orders on merits, taking note of all the grounds raised and the case laws cited by the respective parties, within a period of six weeks from the date of receipt of a copy of this judgment.

12. This writ appeal stands disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D, J.] [M.S.Q, J.]

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Neutral Citation : Yes



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