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W.P.No.25605 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.25605 of 2021
and W.M.P.No.27029 of 2021

R.Jayanthi

...

Petitioner

/vs/

1. The State of Tamil Nadu,
Rep.by the Additional Chief Secretary to Government,
Municipal Administration and Water Supplies Department,
Secretariat,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Buuildings,
Chennai – 600 003.
3. The Zonal Officer,
Zone-XI,
Greater Chennai Corporation,
Valasaravakkam.
4. The Superintendent of Police,
Vigilance and Anti Corruption,
Chennai District.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the entire records pertaining to the impugned order passed by the first respondent herein vide his proceeding in Letter No.451/ME.4/2021-1 dated 03.02.2021 in so far as directing the third respondent herein to terminate the services of the petitioner is concerned and the consequential order passed by the third respondent herein vide his proceedings bearing No.Ma.a.11.Na.Ka.No.C1/928/2021 dated 18.02.2021 and quash the same as arbitrary, unreasonable, being violative of rules and principles of natural justice and consequently direct the respondents herein to reinstate the petitioner in to service with all consequential monetary and service benefits.

For Petitioner ... Mr. A.R.Suresh

For Respondents ... Mr. T.Arun Kumar
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issuance of a writ of certiorarified mandamus to call for the entire records pertaining to the impugned order passed by the first respondent herein vide his proceeding in Letter No.451/ME.4/2021-1 dated 03.02.2021 and the consequential order passed by the third respondent herein vide his proceedings bearing No.Ma.a.11.Na.Ka.No.C1/928/2021 dated 18.02.2021 and quash the same



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as arbitrary, unreasonable, being violative of rules and principles of natural justice and consequently direct the respondents herein to reinstate the petitioner in service with all consequential monetary and service benefits.

2. The petitioner who was working as a daily wager (NMR) has been stopped from service in pursuant to Letter No.451/ME.4/2021-1 dated 03.02.2021 passed by the first respondent. Subsequent to that, the third respondent has also passed an order on 18.02.2021 in Ma.a.11.Na.Ka.No.C1/928/2021.

3. The learned counsel for the petitioner submitted that the petitioner's services have been abruptly stopped by making some gross allegations like corruption and that would damage his reputation; since the petitioner has got enough explanation for possessing a sum of Rs.16,800/- on the alleged day of inspection, she ought to have been given with an opportunity to explain the same; the letter dated 03.02.2021 and 18.02.2021 would cause stigma on the carrier of the petitioner and hence the petitioner has filed this petition.



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4. Firstly, the petitioner is a daily wager who is considered as a NMR and hence no exhaustive disciplinary proceedings can be initiated against the petitioner for any lapse noticed on her during her engagement. The learned Government Advocate has also rightly stated that the services of the petitioner are no more required and she has been relieved on the forenoon of 18.02.2021. Even in the relieving order, it is stated that some money has been confiscated from the petitioner during inspection. However due action has been taken against one Banu Kumar who was the Executive Engineer and Babu who was the Assistant Engineer at the relevant point of time by the appropriate authority. However a criminal case has also been registered against the individuals including the petitioner vide Crime No.04/AC/2020/CC-1 and the same is still pending and the petitioner offered her explanation during investigation.

5. In this regard, the learned counsel for the petitioner invited the attention of this Court to the judgment of the Hon'ble Supreme Court in Hari Ram Maurya Vs. Union of India and others reported in (2006) 9 SCC 167 wherein it is held that even if an employee's service is temporarily



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used and if charges of bribery is leveled against him, it is obligatory for the department to conduct a proper enquiry before passing an order to disengage the employee. The relevant part of the said judgment is extracted under:

“ 3. From the order of termination Annexure P-7, it appears that the same refers to the show-cause notice dated 20.08.2002 which is to be found at a view to help the complainant to get a favourable order in the pension matter. That being so, there was a clear charge of bribery levelled against the appellant. No doubt, the appellant was a temporary employee, but if he is sought to be removed on the ground that he was guilty of the charge of bribery, it become necessary for the respondent Union of India to hold an inquiry and thereafter to act in accordance with law. In this case, admittedly, no inquiry was conducted, and that is obvious even from Annexure P-7, the letter described as disengagement of casual labour. We, therefore, allow this appeal and set aside the order of the High Court as also the order of termination Annexure P-7 dated 30.09.2002. This, however, will not prevent the respondents from taking action in accordance with law.”

6. Though the petitioner cannot expect a proper departmental action, in the light of the above judgment, it is desirable that the third respondent shall conduct an enquiry after giving sufficient opportunity to the petitioner and render a finding as to the truth of the allegations.



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7. Accordingly, this Writ Petition is disposed with a direction to the third respondent to conduct an enquiry after giving sufficient opportunity to the petitioner and render a finding as to the truth of the allegations, within a period of six weeks from the date of receipt of a copy of this order. However it is up to the third respondent to either take back the services of the petitioner or not. No costs. Connected miscellaneous petition is closed.

18.10.2023

Index: Yes / No

Speaking order / Non-speaking order

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To:

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R.N.MANJULA ,J.

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