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W.A.No.3445 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.3445 of 2023

AND

C.M.P.No.28187 of 2023

C.Somburajan

.. Appellant

Vs.

1.Government of Tamil Nadu
Rep. by its Principal Secretary
Labour Welfare and Skill Development Department
Fort St. George
Chennai 600 009

2.The Principal Secretary & Commissioner of Labour
Office of Commissioner of Labour
DMS Compound, Teynampet
Chennai 600 006

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 27.09.2023 passed by the learned Judge in W.P.No.1915 of 2022.

For Appellant : Mr.A.V.Somasundaram
for Mrs.S.Uma Nachiar

For Respondents : Mrs.S.Anitha
Special Government Pleader



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JUDGMENT

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

Assailing the order dated 27.09.2023 passed by the learned Judge in W.P.No.1915 of 2022, the writ petitioner has preferred this writ appeal.

2. The brief facts of the case are that the appellant, who was serving as Joint Commissioner of Labour, Chennai, was arrested on 01.11.2013 by the Inspector of Police, Vigilance and Anti Corruption, Chennai, for receiving illegal gratification and was placed under suspension by order dated 05.12.2013 with effect from 01.11.2013. By order dated 30.06.2014, he was not permitted to retire from service on 30.06.2014. Thereafter, he was issued with a charge memo dated 29.09.2014. The prosecution case faced by the appellant in C.C.No.12 of 2014 on the file of the Special Court for the cases under Prevention of Corruption Act, Chennai, ended in acquittal on 31.03.2021. Subsequently, he was issued with another charge memo dated 18.10.2022 on similar allegations. Challenging the order of suspension dated 05.12.2013 and the subsequent charge memo dated 18.10.2022, the appellant filed W.P.Nos.1915 and 34133 of 2022, respectively. The learned Judge, by a common order dated 27.09.2023, allowed W.P.No.34133 of 2022 and



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dismissed W.P.No.1915 of 2022, with a direction to conclude the departmental proceedings within a period of six months. Aggrieved by the dismissal order, the writ petitioner is before this Court with the present writ appeal.

3.The learned senior counsel appearing for the appellant submitted that the observation of the learned Judge that the appellant was acquitted on technical grounds is not correct, since the Trial Court Judge acquitted the appellant from the alleged charges framed against him, only after perusing the entire case records and after examining the relevant witnesses. Even though the second charge memo has been issued to the appellant after more than nearly 8 years from the date of issuance of the first charge memo and the acquittal judgment dated 31.03.2021, it is not correct on the part of the learned Judge in directing the authorities to proceed with the disciplinary proceedings. The yardstick adopted by the learned Judge in setting aside the second charge memo dated 18.10.2022, ought to have been adopted for the first charge memo dated 29.09.2014 also, since both memos contain identical charges. The learned senior counsel further submitted that in the judgment of the Trial Court dated 31.03.2021, in paragraph-95, it was mentioned that “the prosecution from the evidence let in before this Court has miserably failed to prove their case against the accused officer”, which means that the appellant has been honourably



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acquitted and he is free from the clutches of law, but the learned Judge has not taken note of this aspect correctly, while passing the impugned order. Stating so, the learned senior counsel prayed for setting aside the order passed by the learned Judge in the writ petition.

4.Per contra, the learned Special Government Pleader appearing for the respondent submitted that the learned Judge has analysed the issue in proper perspective and has passed the impugned order and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The law is well settled that irrespective of the outcome of the case of the Criminal Court either acquittal or conviction, the Departmental Enquiry can be proceeded against the officer in respect of the charges levelled against him and further, if the acquittal is not an honourable acquittal, it is open to the Department to proceed with the Departmental Proceedings. The facts on record show that the accused officer has received the amount from P.W.2 and the same was also recovered and further Phenolphthalein Test also proved positive. Only



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in these circumstances, the learned Judge has held that the appellant cannot take the advantage of the acquittal in the criminal case and accordingly directed the respondents to proceed with the charge memo dated 29.09.2014 and conclude the disciplinary proceedings within a period of six months. We do not find any reason much less valid reason to interfere with the order so passed by the learned Judge.

7.At this juncture, the learned senior counsel appearing for the appellant submitted that despite the order of the trial Court acquitting the appellant, the authorities have not revoked the order of suspension, which was the condition precedent, when the order of suspension was passed. The learned senior counsel also sought liberty to the appellant to approach the authorities concerned with such prayer, for consideration.

8.Granted such liberty to the appellant, this writ appeal stands dismissed. No costs. Connected miscellaneous petition is closed.

[R.M.D, J.] [M.S.Q, J.]
14.12.2023

Neutral Citation : Yes/No
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R. MAHADEVAN, J.

AND

MOHAMMED SHAFFIQ, J.

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To

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