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W.P.No.4960 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.No. 4960 of 2024
and
W.M.P.No. 5444 of 2024**

R.Madhavi

....

Petitioner

Vs

1. The Vigilance Officer/General Manager,
CMWSS Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

2. The Superintending Engineer (Central),
Enquiry Officer,
Chennai Metropolitan Water and Sewerage Board,
Chintadripet, Chennai – 600 002.

3. The Managing Director,
Chennai Metropolitan Water and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.

....

Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to drop the disciplinary proceeding initiated on charge memo No.CMWSSB/ P&A /



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VC 2 / 24193 / 2013 dated 12.11.2014, considering the well considered final order passed in C.C.No.2 of 2015 on the file of the Special Court for the Cases under Prevention of Corruption at Chennai on 24.04.2023 and permit the petitioner to enjoy all the benefits and promotion.

For Petitioner : Mr.P.Thiyagarajan

ORDER

This Writ Petition has been filed challenging the charge memo dated 12.11.2014 in Charge Memo No.CMWSSB/ P&A / VC2 / 24193/ 2013 on the file of the first respondent.

2. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

3. The petitioner was appointed as an Assistant Engineer in the year 1991 and thereafter she was promoted to the post of Assistant Executive Engineer in the year 2013 and now she is working as Assistant Executive Engineer-GIS, Office of the Superintendent of Engineer (Planning & Design), CMWSS Board, Chennai. She was implicated in a criminal case in Crime No.5 of 2013 on the file of the Special Investigation Cell, Vigilance



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and Anti-corruption, Chennai, for the offence under the provisions of Prevention of Corruption Act, 1988. Pursuant to the said case, the petitioner was subjected to criminal trial in C.C.No.2 of 2015 on the file of the Special Court for cases under the Prevention of Corruption Act, Chennai. Pursuant to the said FIR, the petitioner was served with a charge memo dated 12.11.2014. However, after serving the charge memo, no enquiry was conducted.

4. In the meanwhile, the Criminal Court, by a Judgment dated 24.04.2023, acquitted the petitioner. Thereafter, the petitioner submitted a representation to drop the charge memo issued against her. Further, there was no action and as such, she was constrained to file a writ petition before this Court in W.P.No.29620 of 2023. This Court, by an order dated 12.10.2023, directed the respondents to conclude the disciplinary proceedings within a period of fourteen weeks from the date of receipt of a copy of the order. In order to comply with the order passed by this Court, the respondents issued notice to the petitioner for enquiry to be conducted on 11.01.2024. However, on 11.01.2024, no one was enquired. Therefore, the



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petitioner submitted a representation to drop the enquiry proceedings informing that she was acquitted from the criminal case. Later, she was informed that the enquiry stands cancelled as the police witnesses has gone for pongal holidays. Therefore, she requested to conduct enquiry at the earliest and conclude the same. In fact, already this Court, by an order dated 12.10.2023, directed the respondents to conclude the disciplinary proceedings within a period of fourteen weeks. However, it was not complied with.

5. The Hon'ble Supreme Court of India in a case reported in **2023 SCC Online SC 1618** in the case of **Ram Lal Vs. State of Rajasthan and others**, held as follows :

“11. We have examined both the questions independently. We are conscious of the fact that a writ court's power to review the order of the Disciplinary Authority is very limited. The scope of enquiry is only to examine whether the decision-making process is legitimate. [See State Bank of India V. A.G.D.Reddy, 2023 : INSC : 766 : (2023) 11 Scale 503]. As part of that exercise, the courts exercising power of judicial review are



entitled to consider whether the findings of the Disciplinary Authority have ignored material evidence and if it so finds, courts are not powerless to interfere. [See United Bank of India V. Biswanath Bhattacharjee, (2022) 12 SCC 329 : 2022 : INSC : 117]

12. We are also conscious of the fact that mere acquittal by a criminal court will not confer on the employee a right to claim any benefit, including reinstatement. (See Deputy Inspector General of Police V. S.Samuthiram, (2013) 1 SCC 598).

13. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the court in judicial review concludes that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge, the court in judicial review can grant redress in certain circumstances. The court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive. Each case will turn on its own facts [See G.M.Tank V. State of Gujarat, (2006) 5



*SCC 446, State Bank of Hyderabad V. P.Kata Rao, (2008)
15 SCC 657 and S.Samuthiram (supra)].”*

6. In view of the aforesaid Judgment, the first respondent is directed to conclude the disciplinary proceedings, initiated pursuant to the charge memo dated 12.11.2014 in Charge Memo No.CMWSSB/ P&A / VC2 / 24193/ 2013, within a period of twelve weeks from today, failing which, the said charge memo shall stand automatically quashed, since it is pending from the year 2014. In such an event, the petitioner would be entitled for all the attendant benefits including promotion.

7. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

28.02.2024

Index:Yes/No

Speaking Order: Yes

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Note : Issue order copy today i.e., on 28.02.2024.

To



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G.K.ILANTHIRAIYAN, J.

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