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W.P. No. 3744 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 3744 of 2018

and

W.M.P. Nos. 4558 & 4559 of 2018

B. Jaganathan,
Jointer,
Puzhal Assistant Electrical Station,
Chennai Corporation,
Zone III Madhavaram,
Chennai.

... Petitioner

Vs.

- 1.The Special Officer,
Appointment Committee,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.
- 2.The Regional Deputy Commissioner (North)
Corporation of Chennai,
Chennai – 600 021.
- 3.The Zonal Officer,
Zon – 3, Greater Chennai,
Chennai Corporation, Chennai – 600 003.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for records connected with proceedings issued in Ma.A.3.Me.Thu.Na.Ka.No.A10/491/2018 dated 29.01.2018 (served on 06.02.2018) passed by the third respondent and quash the same.



For Petitioner : Mr. S. Ilamvaludhi
For Respondents : Mr. S. Gopinathan,
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and carefully perused the material available on record.

2. The admitted facts of the case as per the averments made in the affidavit filed by the petitioner and the counter affidavit filed by the respondents are that, the petitioner was kept under suspension for certain allegations and thereafter, a charge memo was issued to the petitioner and he submitted his explanation. Thereafter, an enquiry officer was appointed to conduct domestic enquiry. Based on the report of the enquiry officer wherein, it is recorded that the charges levelled against the petitioner are true, the second respondent passed an order dated 24.04.2017 imposing punishment to treat the suspension period as eligible leave and the petitioner has to pay an amount of Rs.70,800/- towards the price of the missed 708 chokes. Aggrieved by the same, the petitioner preferred an appeal before the first respondent on 06.07.2017.

3. It is the contention of the learned counsel for the petitioner that, without disposing the said appeal, the third respondent issued proceedings dated 29.01.2018



to recover Rs.70,800/- while he was in the suspension period at the rate of Rs.5,000/- per month from 01.02.2018 and the rest of the amount from his gratuity. Aggrieved by the said order, the present writ petition has been filed.

4. Learned counsel for the petitioner submits that without disposing the appeal filed by the petitioner against the order passed by the second respondent on 24.04.2017 issuing proceedings by the third respondent for recovery on 29.01.2018 is illegal and in violation of principles of natural justice and sought to set aside the same, by allowing the writ petition.

5. On the other hand, the learned Standing Counsel for the respondents on instructions would submit that the appeal preferred by the petitioner on 06.07.2017 was disposed of by the first respondent on 14.10.2017 and the appellate authority order was communicated to the petitioner on 06.02.2018 and as such, there is no appeal pending.

6. On consideration of this factual position, this Court is of the opinion that before communicating the appellate authority order dated 14.10.2017 to the petitioner till 06.02.2018, the third respondent issued impugned proceedings dated 29.01.2018 for recovery of the amounts from the petitioner. It is settled law that any



order passed by any authority, will give effect only after serving the same to the affected person, otherwise it will not be treated as an order. If the order of the appellate authority dated 14.10.2017 is served to the petitioner within a reasonable time and before passing the impugned order dated 29.01.2018, the petitioner will have an opportunity to challenge the same if he feel aggrieved, in the appropriate forum of law.

7. Now in the present case, the petitioner lost that opportunity because of the action of the respondents in not communicating the order of the appellate authority within the reasonable time. Without communicating the order of the appellate authority dated 14.10.2017, till 06.02.2018 and passing the order impugned in this writ petition dated 29.01.2018 is to be declared as, illegal and in violation of principles of natural justice.

8. For the reasons stated above, this Court is of the considered view that the petitioner has made out strong case for interference of this Court under Article 226 of the Constitution of India.



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9. Accordingly, this Writ Petition is allowed and the order impugned in this writ petition is hereby set aside.

10. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

28.10.2024

Index :Yes/No

Neutral Citation :Yes/No

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BATTU DEVANAND, J.

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