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W.P.No.14631 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.14631 of 2018

P.Vijayakumar

...Petitioner

vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

2.The Deputy Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

3.The Chief Mechanical Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

4.Indirani

... Respondents

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second and third respondent herein relating to the second respondent's impugned order dated 17.06.2016 vide No/MEE/DA1/1005/2014/Estt and also the third respondent's impugned order dated 14.03.2016 vide No/MEE/DA1/1005/2014/Estt on the file third



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respondent herein awarding punishment of removal from Trust Service from 14.03.2016 and consequently direct the third respondents herein to re-instate the petitioner herein in service with all backwages and continuity of service and pass such further or other orders.

For Petitioner : Mr.M.N.Sumathy

For Respondents : Mr.A.Kumaraguru for RR1 to 3
SPC

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent order dated 17.06.2016 vide No/MEE/DA1/1005/2014/Estt, confirming the order dated 14.03.2016 vide No/MEE/DA1/1005/2014/Estt passed by the third respondent awarding punishment of removal from Service from 14.03.2016 and sought for a consequential direction to the third respondents to re-instate the petitioner in service with all backwages and continuity of service.

2. The brief facts that are relevant for disposal of this Writ Petition are as under:-

3. The petitioner herein while working as a Technician Gr – II



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(Mech.,) Electric Crane Shop – Area I, in the respondents Port Trust, he was subject to disciplinary proceedings on the ground of bigamy on the complaint made by the fourth respondent, who claims to be the wife of the petitioner herein who also had a daughter through the petitioner herein. Based on the complaint of the fourth respondent herein, the petitioner was issued with a charge memo and after conducting enquiry, a final order of removal from service against the petitioner was passed, by an order dated 14.03.2016. The said order of removal was confirmed by the Appellate Authority in an appeal filed by the petitioner by passing an order dated 17.06.2016. Aggrieved by the said order of removal from service as confirmed by the second respondent/ the Appellate Authority, the petitioner approached this Court by filing the present Writ Petition.

4. Even before considering the case of the petitioner on merits, the learned counsel for the petitioner submitted that the fourth respondent, who is the wife of the petitioner herein, herself approached the respondents Port Trust by submitting a letter in the month of April 2016, stating that she lodged a complaint against the petitioner herein without knowing the



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consequences of the same and because of the impugned orders passed by the respondent Port Trust, removing the petitioner from service, the fourth respondent and her daughter, who are totally dependent upon the petitioner are forced to remain without any support or livelihood. Therefore, she had made a request for withdrawal of the order of punishment imposed against the petitioner and prayed for his reinstatement. In view of the same, the learned counsel for the petitioner prayed for setting aside the impugned order and modify the punishment of removal from service to that of a compulsory retirement thereby enabling the petitioner to get all terminal benefits and to support the fourth respondent and her daughter.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and perused the letter submitted by the fourth respondent as early as in the month of April 2016. From the perusal of the materials on record, it is noted that the impugned order removing the petitioner from service came to be passed only on the complaint lodged by the fourth respondent and that there is no misconduct of whatsoever is alleged as against the petitioner in connection with his employment in the



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respondent Port Trust and the entire service of the petitioner is without any blemish so far. As it is now stated by the learned counsel for the petitioner that the fourth respondent herself has realised her mistake in lodging a complaint against the petitioner and requested for reinstating him into service by modifying the impugned order of removal from service, this Court is of the considered view that it is not appropriate for this Court to consider the said request made by the learned counsel for the petitioner on behalf of the fourth respondent and it is for the respondent Port Trust to consider such request made by the petitioner as well as the fourth respondent.

6. In the light of the above, this Court is of the considered view that it is appropriate to permit the petitioner as well as the fourth respondent to make appropriate representation before the respondents Port Trust for modification of the punishment as compulsory retirement instead of removal from service to enable the petitioner to get all the terminal benefits.

7. Accordingly, this Writ Petition is disposed of with the following



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directions:-

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(i) The petitioner as well as the fourth respondent are granted liberty to submit a fresh representation before the respondent Port Trust within a period of six weeks from the date of receipt of a copy of this order.

(ii) On receipt of such a representation, the third respondent shall consider the same and pass appropriate order for modifying the punishment of removal from service as expeditiously as possible at any rate within a period of six weeks from the date of submission of the said representation.

8. There shall be no order as to costs.

16.04.2024

gba

Index : Yes/No

Speaking order : Yes/No

To

1. The Chairman,
Chennai Port Trust,

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Rajaji Salai, Chennai - 600 001.

2.The Deputy Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

3.The Chief Mechanical Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

MUMMINENI SUDHEER KUMAR, J.

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