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W.P. No. 17361 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 17361 of 2018

and

W.M.P. No. 20620 of 2018

N. Thilaga

... Petitioner

Vs.

The Disciplinary Authority/
Commissioner of Social Defence,
No.300, Purasaiwalkam High Road,
Chennai – 600 010.

... Respondent

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Proc.No.R.Dis.4593/A1/2011 dated 18.06.2018 passed by the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr. S. Ilamvaludhi

For Respondent : Mr. V. Jeeva Giridharan,
Additional Government Pleader



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ORDER

This Writ Petition has been filed challenging the dismissal order passed by the respondent in Proc.No.R.Dis.4593/A1/2011 dated 18.06.2018.

2. The case of the petitioner is that, she was appointed as Typist in the year 1994 and promoted to the post of Assistant in the year 1997 and was further promoted to the post of Probation Officer in the year 2008. A criminal case came to be registered in Crime No. 11 of 2011 by the Vigilance and Anti Corruption officials and the petitioner was arrested and remanded to judicial custody. Aggrieved by the same, the petitioner challenged the conviction order before this Court by way of Crl.A.No.43 of 2018 along with petition for suspension of sentence. This Court by order dated 29.01.2018 suspended the sentence of imprisonment with condition and enlarged the petitioner on bail. Pursuant to the same, a dismissal order from service came to be issued by the respondent on 18.06.2018. Aggrieved by the said order, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the material available on record.



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4. Learned counsel for the petitioner submits that the order of conviction ordered by the trial Court is seized off by this Court by preferring an appeal and it is pending before this Court in Crl.A.No.43 of 2018 and even before getting verdict from that appeal, passing the order of dismissal is against the constitutional guarantee provided to the Government servants under Article 311 of the Constitution. Therefore, he sought for allowing the writ petition.

5. At this juncture, the learned Additional Government Pleader appearing for the respondent placed a copy of the order in Crl.A.No.43 of 2018 dated 18.12.2023 and submitted that the appeal was allowed in-part, by convicting the petitioner and by modifying the sentence. Therefore, he sought for dismissing the writ petition.

6. As seen from the submissions of the respective counsels and on careful perusal of the materials available on record, it appears that disciplinary proceedings initiated against the petitioner on the basis of facts, which have lead to conviction in a case listed under the provisions of the Prevention of Corruption Act 1988, in exercise of the powers conferred by Rule 17(c)(i)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The third respondent has imposed the penalty of dismissal from service of the petitioner. The main ground raised by the petitioner in



this Writ Petition is that against the judgment dated 05.01.2018 in C.C.No.20 of 2012 on the file of the Special Court for the Cases under Prevention of Corruption Act, Chennai, the petitioner has preferred an appeal in CrI.A.No.43 of 2018 before this Court. This Court by order dated 29.01.2018 suspended the sentence of imprisonment with condition and enlarged the petitioner on bail. As the conviction order passed by the Special Court in C.C.No.20 of 2012 was seized off by this Court in CrI.A.No.43 of 2018, the respondent is not empowered to pass the order of dismissal in disciplinary proceedings.

7. But on consideration of the submissions of the learned Government Pleader appearing for the respondent and on perusal of the judgment passed by this Court in CrI.A.No.43 of 2018 dated 18.12.2023, it appears that the criminal appeal filed by the petitioner was allowed in part. While confirming the conviction made by the Trial Court against the petitioner, sentence of rigorous imprisonment for one year imposed on the petitioner has been modified to one year simple imprisonment. Thus, the sentence of fine imposed by the Trial Court is maintained.

8. Since the order of conviction made by the Trial Court against the petitioner has been confirmed, in the considered opinion of this Court, there is no illegality or infirmity in the order dated 18.06.2018 passed by the respondent against the



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petitioner.

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9. Accordingly, this Writ Petition is dismissed.

No costs.

Consequently, connected miscellaneous petition is closed.

05.09.2024

Index :Yes/No

Neutral Citation :Yes/No

AT / pvs

To

The Disciplinary Authority/
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BATTU DEVANAND, J.

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