



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.5575 of 2021
and W.M.P.Nos.6196 & 6197 of 2021

M.Selvarasu

... Petitioner

Vs.

1.The Chairman,
Puducherry Housing Board-cum-
Secretary to Government,
Puducherry Housing Board, Puducherry.

2.The Secretary,
Puducherry Housing Board, Puducherry.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent with F.No.1912/PHB/ESTT/2019-20/365 dated 28.10.2020 and the punishment order with No.1384/CS(Hg)/2021 dated 13.11.2021 and to quash the same and consequently, direct the respondents to release the petitioner's retirement benefits forthwith.

(Prayer amended vide order dated 28.06.2024 made in W.M.P.No.13270 of 2024 in W.P.No.5575 of 2021 by MSKJ)



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For Petitioner : Mr.V.Ajayakumar
For Respondents : Mr.B.A.Sujay Prasanna

ORDER

This Writ Petition has been filed for quashment of the order of the second respondent with F.No.1912/PHB/ESTT/2019-20/365 dated 28.10.2020 and the punishment order with No.1384/CS(Hg)/2021 dated 13.11.2021 and consequently, direct the respondents to release the retirement benefits of the petitioner forthwith.

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

3.The learned counsel for the petitioner submitted that the petitioner initially joined as Junior Assistant in the second respondent Board on 01.02.1990 and prior to joining the service of the second respondent, he worked as Typist in the Pondicherry Co-operative Sugar Mills from 1985. In 1988, the Town and Country Planning Department has issued a notification to call for the applications for allotment of plots for construction of residential building and on seeing the said notification, the petitioner applied



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for a plot and in the year 1991, after a period of three years, the Town and Country Planning has issued an allotment letter to him allotting plot No.112 measuring 218 sq.mts and the same was registered in the name of the petitioner through a registered document on 24.05.1993. Due to some financial problem, the petitioner was forced to sell the said property to one Ravi & Jayaraman through a registered deed dated 07.03.1994 within a period of 8 months of registration. He further submitted that the second respondent has formulated 194 MIG scheme in Lawspet area and even after several advertisements in Newspapers, there were no takers for the said flats under the 194 MIG Scheme. Finally, the second respondent has offered the same to the employees of the Housing Board and notices were fixed in the notice board of Housing board and even then, no employee came forward to purchase the same. Hence, a decision was taken in the Board Meeting of the Housing Board to relax all the rules and restrictions and a fresh notice was again published in the office and the petitioner has applied for the same. The Board has relaxed the rule that if any employee is having a plot or housing flat without allotted, has also eligible to apply for the same. At the time of applying for Flat in the 194 MIG Scheme at Lawspet Phase III, the petitioner was not having any plot as alleged by the second respondent in the Charge



Memo. He further submitted that one Tamilarasan was inflicted with punishment by the second respondent since he has taken House Building Advance from Housing Board and constructed a residential building. By concealing the same, he applied for MIG Flat in Ariankuppam, obtained allotment and the same was detected by the Housing Board whereby he was punished for the same. For which, the said Tamilarasan gave complaints against the other employees including the petitioner for obtaining allotment of MIG by concealing the allotment of plot by Town and Country Planning. Based on the complaint, the second respondent issued a Charge Memo to the respondent on 28.10.2020. It is well settled law that Disciplinary Proceedings cannot be initiated against an employee on the eve of his retirement and enquiry proceedings cannot be conducted without obtaining prior permission from the President of India as per the Rule 9 of the Pension Rules if there is no financial loss to the employer. Hence, the petitioner has filed the present petition seeking for quashment of the Charge Memo which was issued by the second respondent.

4. The learned counsel for the respondents submitted that as per the direction of this Court dated 08.03.2021 in this Writ Petition, the respondents



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have proceeded with the disciplinary proceedings as against the petitioner pertaining to the impugned Charge Memo and the final order has been passed on 13.11.2021. The said order is placed in sealed cover in due compliance of the direction of this Court. Since the final order has been passed in the disciplinary proceedings, this petition has become infructuous and the petitioner has an alternate remedy for ventilating his grievance by way of an appeal as contemplated under Regulation 11 of the Pondicherry Housing Board (Classification, Control and Appeal) Regulations 1985. The Regulation 11 of the Pondicherry Housing Board (Classification, Control and Appeal) Regulations 1985 is extracted hereunder:

“11.Appeals: A servant shall be entitled to appeal against a punishment order within a period of three months from the date on which the appellat receives a copy of the order appealed against. Except in cases where the punishment has been imposed under the orders of the Board, an appeal against an original order of punishment should be made to the authority immediately higher than the authority issuing that punishment order.”



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5. Considering the submissions made by the learned counsel for the petitioner and based on the Regulation 11 of the Pondicherry Housing Board (Classification, Control and Appeal) Regulations 1985, this Court is of the view that the petitioner shall file an appeal before the Competent Authority, within a period of one month from the date of receipt of a copy of this order and the Competent Authority is directed to dispose of the same within a period of six months therefrom. The delay in filing the appeal is also hereby condoned.

6. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.09.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The Chairman,
Puducherry Housing Board-cum-
Secretary to Government,
Puducherry Housing Board, Puducherry.
- 2.The Secretary,
Puducherry Housing Board, Puducherry.



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VIVEK KUMAR SINGH, J.

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